UNITED
NATIONS

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Security Council

PROVISIONAL

S/PV.3033
21 January 1992

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND AND THIRTY-THIRD MEETING

Held at Headquarters, New York,
on Tuesday, 21 January 1992, at 11.30 a.m.

President:	Sir David HANNAY	(United Kingdom of Great Britain and Northern Ireland)
Members:	Austria	Mr. HOHENFELLNER
	Belgium	Mr. NOTERDAEME
	Cape Verde	Mr. JESUS
	China	Mr. LI Daoyu
	Ecuador	Mr. POSSO SERRANO
	France	Mr. ROCHEREAU DE LA SABLIERE
	Hungary	Mr. ERDOS
	India	Mr. GHAREKHAN
	Japan	Mr. HATANO
	Morocco	Mr. SNOUSSI
	Russian Federation	Mr. VORONTSOV
	United States of America	Mr. PICKERING
	Venezuela	Mr. ARRIA
	Zimbabwe	Mr. MUMBENGEGWI

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The meeting was called to order at 11.45 a.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTERS DATED 20 AND 23 DECEMBER 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)

The PRESIDENT: I should like to inform the Council that I have received letters from the representatives of Canada, Congo, Iraq, Italy, the Libyan Arab Jamahiriya, Mauritania, Sudan and Yemen in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Belgasem El-Tahli (Libyan Arab Jamahiriya) took a place at the Council table; Mr. Kirsch (Canada), Mr. Adouki (Congo), Mr. Kadrat (Iraq), Mr. Traxler (Italy), Mr. Ould Mohamed Mahmoud (Mauritania), Mr. Hassan (Sudan) and Mr. Basalamah (Yemen) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT: I should like to inform the Council that I have received a letter dated 20 January 1992 from the Permanent Representative of Morocco to the United Nations, which reads as follows:

> "I have the honour to request that the Security Council extend an invitation to His Excellency Mr. Adnan Omran, Under-Secretary-General of the League of Arab States, to address the Council under rule 39 of its provisional rules of procedure during the Council's discussion of the item presently on its agenda."

(The President)

That letter has been published as a document of the Security Council under the symbol S/23442. If I hear no objection, I shall take it that the Council agrees to extend an invitation under rule 39 to Mr. Omran.

There being no objection, it is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have the following documents before them:

S/23306, letter dated 20 December 1991 from the Permanent Representative of France to the United Nations addressed to the Secretary-General;

S/23307, letter dated 20 December 1991 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General;

S/23308, letter dated 20 December 1991 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General;

S/23309, letter dated 20 December 1991 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General; and

S/23317, letter dated 23 December 1991 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General.

Members of the Council also have before them document S/23422, which contains the text of a draft resolution submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of

(The President)

America. I should like to draw attention to documents S/23416 and S/23417, letters dated 20 and 29 November 1991, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General, and S/23436 and S/23441, letters dated 17 and 18 January 1992, respectively, from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council.

The first speaker is Mr. Jadalla A. Belgasem El-Talhi, the Minister for Strategic Industries of the Libyan Arab Jamahiriya. I welcome him and invite him to make his statement.

Mr. BELGASEM EL-TALHI (Libyan Arab Jamahiriya) (interpretation from Arabic): At the outset, Sir, allow me on behalf of my delegation to congratulate you on your assumption of the presidency of the Security Council for the current month. Your task demands extraordinary wisdom and patience and a deep sense of justice. It is our earnest hope that your vast experience will help inspire you and the Council with the principles of justice, truth and respect for law.

We also pay tribute to your predecessor who presided over the Council last month.

I am very pleased also to take this opportunity to express our sincere congratulations to Mr. Boutros Ghali, who has just taken office as Secretary-General of the United Nations. Mr. Boutros Ghali is renowned for his competence and experience, but we take special pride in his assuming that important post since he belongs to a nation that we are proud to belong to, and to a continent of which we are a member and which we cherish.

(Mr. Belgasem El-Talhi,
Libyan Arab Jamahiriya)

I should also like to take this opportunity to pay tribute to the former Secretary-General, Mr. Javier Perez de Cuellar, for the contribution he made to international peace and security and to the promotion of world economic and social development.

I congratulate the countries that became members of the Council at the beginning of this year and I pay tribute to the countries whose membership in the Council expired at the end of last year.

My country welcomes the convening of the Security Council, in spite of the facts that I shall explain later in my statement. We hope that this meeting of the Council will contribute to dissipating the smokescreen that has engulfed the issue before it. Some have tried to use it to block and indeed distort my country's real position. My country welcomes the meeting of the Council; we might have ventured to ask for a meeting after the direct threat by high-level official circles in the Governments of the United Kingdom and the United States of America to use force against my country.

(Mr. Belqasem El-Talhi, Libyan Arab Jamahiriya)

Since the 1988 explosion of the Pan Am aircraft and the 1989 explosion of the UTA aircraft, the world has heard many stories. At various times accusations were leveled against States, groups or both; at different times, different groups were accused, with given groups being declared innocent after having been accused.

Approximately four years after the horrible Lockerbie accident, United Kingdom and United States investigators suddenly came up with two different indictments. The Scottish application accuses two individuals, while the United States indictment names two individuals and implicates a State and one of its Government services.

Although the announcement by the Lord Advocate of Scotland and the indictment by the United States grand jury are ostensibly based on an arduous four-year investigation, no supporting evidence or proof has been made available. All the world's penal codes require that to be valid an indictment must be supported by evidence and proof. An indictment without that supporting evidence or proof can mean only two things. First, the United States and United Kingdom indictments are intended as final, unequivocal judgements on which there is to be no further discussion: the two Libyan nationals were declared guilty when the indictments were issued. That would mean a new rule of law running counter to the established principle: the accused are now to be considered guilty until proved innocent.

Alternatively, the evidence and proof behind those indictments are not serious, and the accusations are based on guesswork and groundless actions. They are based, inter alia, on the allegation that an unaccompanied suitcase was carried on Air Malta flight KM-180 to Frankfurt on 21 December 1988. The

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indictments further allege that the suitcase contained the tool of the crime that caused the crash of the aircraft. That allegation is completely baseless and the assertion invalid. Maltese authorities carried out the necessary investigation, which concluded that no unaccompanied suitcase was on board that flight on that date. That was the determination of Air Malta, which is the most relevant party to the alleged incident. Moreover, the Minister for Foreign Affairs and Justice of Malta, a former President of the General Assembly, confirmed that finding in a statement before the Parliament of the Republic of Malta.

In a joint communiqué by the Prime Minister of the Republic of Malta and the Secretary of the General People's Committee, issued on 17 December 1991, the Maltese side affirmed that

"the findings of the investigations proved that no unaccompanied suitcase remained aboard Air Malta flight KM-180 to Frankfurt on 21 December 1988".

Thus, the arguments are groundless and cannot support such grave accusations. They are based on false premises and assumptions and are therefore false, because that which is based on false arguments is itself false. Anything else would violate the basic judicial norms and guarantees that all countries, including the United States, the United Kingdom and France, are eager to ensure in their own constitutions.

What was the reaction of my country to the two indictments? And I stress that they were not judicial judgements: they were mere indictments, accompanied not by any investigative documentation but by hostile official statements, some of them going so far as to threaten military and economic aggression. Indeed, the United States actually intensified its economic

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boycott by taking action inconsistent with the international monetary system and violating all established laws and regulations. Despite all that, my country treated the matter seriously and showed due respect for the judicial authorities in the two countries. Libya's competent judicial authorities took the following steps:

First, they appointed two investigating magistrates.

Secondly, those magistrates initiated an investigation in accordance with the Libyan law of criminal proceedings of 1953, because the matter relates to accusations that two Libyans committed acts that are viewed as crimes under the Libyan penal code and that are also punishable under the law of the country in which the incident occurred.

Thirdly, the Libyan investigators contacted the investigating authorities in Scotland, the United States of America and France, requesting investigation files and evidence so that they could fulfil their mandate. The Libyan investigators expressed their willingness to travel to those countries to acquaint themselves with the investigations and review the evidence. They offered to cooperate with the investigators in those three countries.

But the Libyan investigators have been unable thus far to make any significant progress, owing to the refusal by the United Kingdom, the United States and France to hand over the files of the investigations or submit the evidence in their possession.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

Everyone knows that there can be no accusation without an investigation and no judgement without a fair trial. These principles are respected in all legislation, including the constitutions of the United States, the United Kingdom and France.

Fourth, the competent authorities in my country expressed their readiness to receive investigators to participate in the investigation. They welcomed lawyers of those claiming civil liability as well as representatives of human rights organizations.

Fifth, despite the considerations supporting Libyan national jurisdiction, the competent authorities in my country believed that the international dimensions of the alleged events might make an international investigation an appropriate means of starting to resolve the dispute. Up to this very time, the existing dispute has nothing at all to do with the rule of law, to which all declare they are committed. Rather, the dispute is related to multifaceted occurrences involving more than one State. The competent authorities in my country would even have welcomed a neutral investigating committee or reference of the question to the International Court of Justice.

Those were the actions taken and the positions held by my country.

The Jamahiriya handled this matter, which is of a legal nature, in accordance with its valid legislation and with established international law and norms.

Now, how did the other parties react to this position, which we firmly believe is a legal and just position? Not only did they reject it, but, moreover, the United Kingdom and the United States requested the extradition of the two Libyan nationals in order that they could be tried in their courts

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before the completion of the investigation or even before they had been confronted with the actual accusations against them. Does this request not seem strange under established international norms, especially when it comes from States like the United Kingdom, with a long history of justice, and the United States of America, which has placed the sovereignty of law and the protection of human rights at the forefront of its ideals? Both these States are members of the Security Council.

My country has not dealt with this issue out of illegal motives or incentives or in response to any political decision by the General People's Committees. The problem has nothing to do with the Libyan State, but it does involve Libyan nationals. Only the judiciary has the authority to verify the problem, in accordance with the established principles concerning investigations and accusations, and other fundamental principles. The judiciary is independent and nothing except domestic and international law can have any control over it, especially when it is dealing with a purely legal question.

All that having been said, can anyone claim that my country has not cooperated? My country has cooperated and we are still ready to cooperate to the fullest extent, within the context of absolute respect for international agreements, established norms, prevailing legal systems, and human rights.

In our view, the entire issue is absolutely clear. What does this review of the matter demonstrate? It is obvious that if there is an issue before the Council which it has to deal with, it is a legal issue; it is a question concerning a conflict of jurisdiction, a dispute over the legal determination to be made in connection with a request for extradition.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

In regard to the first question, the answer is obvious. If there is a conflict of jurisdiction, it is of a legal nature and international law and the relevant international conventions set out the concrete ways and means to solve it. The 1971 Convention for the suppression of unlawful acts against the safety of civil aviation - known as the Montreal Convention - stipulates in its article 14 that

> "Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

Does that text not set forth practical procedures and controls for ensuring the peaceful settlement of the dispute?

As for the dispute in connection with extradition, the situation is obvious. There are countless precedents in this regard, including precedents pertaining to the United States of America and France.

What is before us is a legal issue. The horrible realities underlying the issue should not make us forget this fact. The legal nature of the issue cannot be questioned, especially as it relates to major super-Powers that are permanent members of the Security Council and that are aware, even more than other countries, that the Security Council should bear in mind that, in making recommendations in this respect, it should also take into consideration that, under Article 36, paragraph 3, of the Charter

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"legal disputes should as a general rule be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court."

There can be no doubt that this is a purely legal question. Neither can there be any doubt that therefore the Security Council is a forum that is not competent to consider the question.

It is clear what the Security Council is competent to consider - namely, a dispute of a political nature in which the parties to it have not followed any of the means for peaceful settlement of disputes set out in Article 33 of the Charter. In such a case, the Council may call upon the parties to settle their dispute by such peaceful means. My country has frequently declared its readiness to negotiate and accept mediation and other peaceful means to settle the dispute. The Security Council should at least call upon the other parties to respond favourably to that expression of readiness.

Libya is a small, developing country with limited resources. Our aim is to develop and improve the standard of living of our nationals. Libya believes that this cannot be done except through the supremacy of international legality, the establishment of peace, the consolidation of justice and the deepening of effective international cooperation. Therefore, we in Libya are very sincerely committed to legality and the rule of law.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

I hope that this will not shake our faith in our conception of the new international order, in which we envisage an essential role for the Security Council based on the principles of the United Nations Charter.

For the Council to ignore the legal nature of the issue before it by adopting the draft resolution would have a far-reaching and profound negative impact on the conscience of all nations of the world. How could this forum accept a draft resolution based on incomplete investigatory conclusions? Under all national constitutions, the conclusions of an investigation are not final until confirmed in judicial judgements. Under what legality can an individual - even if he holds official office - be accused of committing an act that would automatically imply the collusion of that State?

We are all aware that a main issue in criminal law under all legal systems is the verification of the responsibility of the individual, per se. That responsibility is especially important to determine before concluding that the State is responsible for him, even if he is one of its officials.

How can the Council condemn Libya for its failure to respond after Libya has taken so many measures? Libya's position has been endorsed by many organizations, as evidenced by the resolutions of the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and other international organizations, including some legal organizations. Indeed, my country has taken all possible measures, including those mentioned in the statement of the President of the Security Council on 30 December 1988, in which he called on all States to assist in the apprehension and prosecution of those responsible for that criminal act.

How can this forum adopt a resolution urging Libya to respond fully and effectively to illegal requests and asking other countries to urge Libya to do

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so, as stipulated in the operative paragraphs of the draft resolution before us? I remind the Council that three States have asked Libya, inter alia, to disclose all the information on the crime in its possession, including the names of all involved, and to allow communication with witnesses and access to other documents and physical evidence, including the timers. What does this request mean? It can only mean a priori that the investigation is not yet complete, since the investigators lack witnesses and need the names of those involved and physical evidence. The foregone conclusion is that the accusation lacks witnesses and physical evidence. That was the main reason underlying the refusal of the United Kingdom and the United States to transmit the investigation file to the Libyan and other judiciaries.

What kind of accusation is it which is still seeking physical evidence, witnesses and information allegedly to be found in the possession of another country? One claim for compensation went to the extreme of bypassing the investigation stage, requests for extradition and the entire trial stage. The situation as put forward by these three countries presupposes the following: that the investigation is complete, which is untrue,, since the three countries are still asking for information, physical evidence and the testimony of witnesses; that the extradition is taken for granted, which is contrary to existing laws; that the trial is over and the two Libyan nationals were convicted fairly and justly; that a final, unequivocal determination has been reached to the effect that the Libyan State is responsible for the defendants' actions; and that, as a result of the final and unequivocal criminal judgement, a civil determination has been rendered to oblige the Libyan State to pay compensation and that the Security Council is required to implement that judgement.

(Mr. Belgasem El-Talhi,
Libyan Arab Jamahiriya)

Has any of these assumptions been fulfilled? In my opinion, they all contradict the established principles and norms not only of my country but also of the constitutions of all countries of the world, including that of the United States of America. They are basic principles and practices in investigation, accusation, indictment and trial. No accusation can be made before a fair investigation has taken place and sufficient evidence gathered. A person is innately innocent, an accused is innocent until proved guilty and no conviction or punishment can be imposed before a fair trial.

To sum up my country's position, we condemn terrorism in all its forms, including State-sponsored terrorism. Libya has confirmed and today reconfirms its determination to take every action and make every effort to put an end to this dangerous phenomenon. We are willing to commit ourselves to combating this plague by any measures approved by the international community.

Our country is small and therefore has a vested and genuine interest in stemming the tide of terrorism, including State-sponsored terrorism. My country also profoundly believes that the protection of civil aviation should be given the special attention and effective cooperation of all countries of the world.

(Mr. Belgasem El-Talhi, Libyan Arab Jamahiriya)

My country, which, as you are aware, has been a victim of criminal acts directed against the safety of civil aviation, strongly condemned and condemns the destruction of the two Pan Am and UTA airliners. We expressed - and today we express once again - our sympathy with the families of the victims. My country is committed to disclosing the complete facts surrounding those criminal acts.

Secondly, the accusations directed against the Libyan Arab Jamahiriya with regard to the destruction of the United States and French airliners have to do with legal disputes. The measures taken in the countries concerned have tended to take the form of purported investigatory proceedings which led to the filing of accusations. Today, there can be no argument in favour of moving the dispute from the legal sphere to the political sphere by referring it to the Security Council. Indeed, the Security Council has no competence to consider legal disputes. The Charter contains explicit provisions on the methods for handling such disputes through arbitration and due legal process.

Thirdly, since receiving the indictment papers, my country has restated its commitment to exercising its jurisdiction, pursuant not only to domestic legislation but to relevant international conventions as well. In this connection two judges have been assigned to investigate the matter, and they have already begun to exercise their functions. In addition, my country has expressed its willingness to cooperate with the judicial authorities in the countries concerned. By so doing, we are motivated solely by the wish to uncover all the facts and to fix responsibility. My country has agreed to the participation of all interested parties in the investigatory proceedings, which should be carried out within the framework of full cooperation with the investigating authorities in the countries concerned.

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Libya has requested those authorities to provide it with all the evidence and documents in their possession that could assist in the progress of its investigation, but Libya's initiative has met with no positive response.

After all it has done and advocated, can Libya conceivably be accused of a lack of cooperation? Libya has pursued the course dictated by its existing legislation and consistent with the provisions of international law. Investigatory proceedings were initiated and the two accused will be brought to trial to examine the evidence against them. If they are convicted, they will be punished according to the provisions of Libyan law, which are tougher than those in most other modern criminal legal systems.

The competent legal authorities themselves will continue to implement those processes stipulated by law. It is unthinkable that the independence, impartiality and integrity of the Libyan judiciary should be questioned on any pretext or on the basis of any political motivation. Any initiative, at any level, must be taken through and in cooperation with the competent Libyan legal authorities, as we have demanded.

I repeat that the investigation in Libya has unfortunately not yet many any progress owing to the lack of cooperation on the part of other parties and their refusal to transmit the dossiers of their investigations. In practical terms, this can only mean either that no investigation was actually conducted or that, as we have noted, the investigation was grossly deficient.

I should like to state once again that this dispute is of a purely legal nature, which should lead the Council to recommend its settlement through the divers legal channels that are available, not only within the framework of the United Nations Charter but also under the provisions of more relevant international conventions, such as the aforementioned Montreal Convention of

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1971. On the basis of that Convention, particularly its article 14, and to solve the question raised about a conflict of competence, my country has taken concrete and practical measures and, in official communications addressed to both the United States of America and the United Kingdom, has requested that the dispute be referred to arbitration. Today, before the Council, my country requests that both those countries be invited to enter promptly into negotiations with Libya on proceedings leading to arbitration and an arbitration panel. To ensure the speedy settlement of the dispute, we consider that a short and fixed deadline be set for those proceedings, after which, if no agreement is reached on arbitration, the matter would be brought before the International Court of Justice.

My country expresses its willingness to conclude immediately, with any of the parties concerned, an ad hoc agreement to have recourse to the International Court of Justice as soon as the short deadline for reaching agreement on arbitration expires, or at any other convenient and near date should the countries concerned agree to go beyond the arbitration stage and the proceedings of an arbitration panel.

In that light, how can this dispute be considered a political one? We do not believe that it is, for Chapter VI of the Charter also sets forth concrete methods of reaching a peaceful settlement. The Council has been guided by those methods in earlier instances. The matter should not be handled in the light of any considerations other than those set forth in the Charter. Libya has never threatened any country. It cannot behave in such a way as to endanger peace and security. Indeed, Libya is being threatened by super-Powers, just as armed agression was unleashed against it in 1986. Libya

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is still being subjected to an economic boycott, disinformation campaigns and psychological pressure.

In conclusion, the legality of the Council's work is subject to its observance of the provisions of the Charter of the Organization and to its proper implementation of those provisions. It is inconceivable that this could be achieved through the participation of the parties to this dispute in the voting on the present draft resolution. To disregard the legal nature of the dispute and treat it as a political matter would constitute a flagrant violation of the explicit provisions of Article 27, paragraph 3, of the Charter.

The Council has two choices: it can respect the Charter and follow moral principles and international law, or it can respond to this unjust request by the United States of America and the United Kingdom, which want to use the Council as a cover for military and economic aggression against a small country that is striving to free itself from economic backwardness. We are fully confident that the members of the Council - indeed, all Members of the United Nations - will uphold the principles enshrined in the Charter and international law and respect the principles of justice and equity that my country is asking to be applied and abided by.

The PRESIDENT: I thank the Minister for Strategic Industries of the Libyan Arab Jamahiriya for his compliments addressed to me.

The next speaker inscribed on my list is His Excellency Mr. Adnan Omran, Under-Secretary-General of the League of Arab States, to whom the Council has extended an invitation under rule 39 of its provisional rules of procedure. I invite him to take a place at the Council and to make his statement.

Mr. OMRAN (interpretation from Arabic): I should like to congratulate you, Sir, on your assumption of the responsibilities of the presidency of the Security Council for this month. I wish you success in your task. I take this opportunity to congratulate Mr. Boutros Boutros Ghali on his having been entrusted with the great responsibility of Secretary-General of the United Nations. I also congratulate the new members of the Council.

I should like at the outset to express to you and, through you, to the other members of the Security Council our deep appreciation for having given me this opportunity to speak on behalf of the League of Arab States on the important issue under consideration.

The League of Arab States, and its Secretary-General, Mr. Ahmad Esmat Abdel Meguid, have been following with keen interest developments with regard to the situation involving charges and threats directed against the Libyan Arab Jamahiriya concerning the regrettable incident of the downing of the Pan Am airliner in 1988.

During the past month the League of Arab States made every possible effort, through the contacts made by its Secretary-General with all the parties concerned, in order to reach a peaceful solution in consonance with the provisions of the legal instruments we should all respect and observe in such crises.

(Mr. Omran)

The secretariat of the League of Arab States called upon all parties to exercise self-restraint and to refrain from taking any precipitate action that might increase tension in the Middle East at this historical juncture, in which all international and Arab efforts are being concerted, particularly those of the United States of America, in order to reach a just, durable and comprehensive peace in the region.

Allow me very briefly to put on record the position of the League of Arab States and its member States by way of the following points:

First, the League of Arab States and all its member States attach special importance to this issue in all its aspects. Consequently, the League of Arab States condemns terrorism in all its forms and calls for activation of international efforts previously discussed by the General Assembly in order to deal with the question of international terrorism and its consequences, as well as the responsibilities for the kinds of terrorism, either that of the perpetrator's or that of the international community's, the latter bearing special responsibilities in this respect. The League of Arab States reiterates its numerous decisions adopted at the highest level, including at the summit level, condemning terrorism and calling for an international settlement of this serious issue.

Secondly, the League of Arab States with all its member States completely sympathizes with the families of the victims of the two aircraft, and sympathizes also with all the innocent victims of incidents of terrorism.

Thirdly, based on its interest in an objective and honest settlement of this question, the League of Arab States requests that all measures taken either within the framework of the United Nations or outside it should be based on the provisions of international law and the provisions of the Charter

(Mr. Omran)

of the United Nations. This is because, in the face of crises, the international community needs more objectivity, more adherence to legitimacy and more refraining from emotional reactions which might lead to the gravest consequences that are rejected by the international community. Based on the belief of the League of Arab States and the importance and seriousness of this issue and the need to find a solution to it in order to eliminate tension and reach constructive results which might promote international efforts aimed at putting a definitive end to international terrorism in all its forms, the Council of the League of Arab States held two emergency meetings, on 5 December 1991 and 16 January 1992, and adopted two resolutions in which it stressed the principles and means on which the Council of the League of Arab States believes that respect for the constructive objectives of the United Nations and all its Member States may be ensured.

The two resolutions can be summed up by the following two points: first, condemnation of terrorism in all its forms and of the incident of the downing of the American aircraft and full sympathy with the families of the victims; and, second, support for the position of the Libyan Arab Jamahiriya, which denied any responsibility for the incident and condemned terrorism in all its forms and expressed its full and total willingness to find a solution of the question in accordance with Article 33 of the United Nations Charter and to place this question before a neutral international commission of inquiry, which, thanks to its composition, might undertake an objective, neutral and comprehensive investigation of all files and all suspects and reveal all facts.

Based on this willingness, the League of Arab States proposed, in its resolution which has been distributed as an official document of the Security Council under the symbol S/23274 on 9 December 1991,

(Mr. Omran)

"... the establishment of a joint commission of the United Nations and the League of Arab States to study all documentation relating to the matter, in accordance with the existing cooperation between the two organizations, with the possible participation of other parties as observers". (S/23274, annex)

In the light of these investigations, suitable measures could be taken.

With all sincerity, we call upon the States members of this Council, particularly the three countries that called for the convening of this meeting, to keep in mind that every action that might be taken or requested will constitute an international precedent.

(Mr. Omran)

They should also remember the danger of taking action that might be considered a violation of the provisions of international law. Such action would not reassure the international community and its States. Nor would it give a good impression of the new international order which all our countries look forward to establishing on the basis of respect for the international principles and values embodied in the Charter of the United Nations.

We believe it illogical for the investigators, the judges, the jury and those who mete out punishment to be one and the same; it would contravene the most basic rules of law. Thus, we re-emphasize how important it is for the investigation to be conducted by a neutral, objective body. On this basis, we hope that the Council will entrust the Secretary-General with the task of exercising his good offices with all the parties concerned and that we will be able to reach a peaceful settlement of the question in conformity with Article 33 of the Charter. We are confident that such an action would spare the Middle East region complications that would have unprecedented and dire consequences. I believe we can all agree that the last thing the Middle East needs is more tension.

The PRESIDENT: I thank Mr. Omran for his kind words addressed to me.

The next speaker is the representative of the Sudan. I invite him to take a place at the Council table and to make his statement.

Mr. HASSAN (Sudan) (interpretation from Arabic): At the outset, Sir, allow me to express to you our sincere congratulations upon your assumption of the presidency of the Security Council for this month. I should also like to express our gratitude to your predecessor for the able and excellent manner in which he conducted the business of the Council last month.

(Mr. Hassan, Sudan)

Nor can I fail to express our happiness and sincere congratulations to Mr. Boutros Boutros Ghali, Secretary-General of the Organization, upon his well-deserved election to that high post.

We also extend our congratulations to the new members of the Council. We wish them all success in their endeavours for the maintenance of international peace and security. We express our appreciation as well to the outgoing members of the Council, who discharged their tasks fully in a turbulent stage of the history of our international Organization.

My delegation would like to express its extreme puzzlement at the train of events surrounding the accusations levelled by the United States of America, the United Kingdom and France at the Libyan Arab Jamahiriya concerning its alleged involvement in the destruction of the two UTA and Pan Am airliners, which have caused the question to be placed before the Council.

It is not clear to my delegation on what logical or legal basis the Security Council proceeded to deal with this subject and to formulate a draft resolution thereon without sufficient legal reasons. The whole matter is still under consideration and investigation. The allegations have not been proved beyond doubt. Therefore, placing the subject before the Security Council during this stage of the investigation runs counter to the principles of justice, and even common sense. It influences the ongoing investigations, which must be completely impartial and devoid of motivations of vengefulness and revenge.

The investigations which have taken place thus far - despite the great efforts that have been made - have been carried out by only one party. The Libyan Arab Jamahiriya has been given no opportunity to express its point of

(Mr. Hassan, Sudan)

view, or to take part in those investigations. Since the investigations have been carried out by one party alone, and by the competent authorities of countries which are parties to the question, they are not impartial. Hence, it is necessary to establish the appropriate atmosphere and the appropriate neutral, impartial venue to consider and decide upon the degree of involvement, if any, of the Libyan Arab Jamahiriya in these regrettable accidents, and to decide whether or not to extradite those accused.

We live in the new world order. This is the United Nations Decade of International Law. We live under the Charter of the international Organization and support its endeavours for the peaceful settlement of disputes.

The Security Council is considering what, to our country, are nothing but allegations without legal supporting evidence. It is our hope, therefore, that the Security Council will take into account all these factors and that it will give an opportunity for the rule of law, logic and common sense to be applied in dealing with such questions, that is to say through recourse to international legal institutions.

The Libyan Arab Jamahiriya has expressed its readiness to arrive at a legal solution to this crisis. Libya has reaffirmed its condemnation of terrorism in all its forms and shapes. It has agreed that the matter be subject to an impartial and neutral international investigation, or that it come before the International Court of Justice, the main judicial instrument of the United Nations for settling such disputes. We feel that the understanding and cooperation evinced by Libya must be matched by the other parties. Libya has appointed two judges to investigate the matter with the accused. In order to complement the efforts of the Libyan side, the three

(Mr. Hassan, Sudan)

States concerned should provide the two Libyan judges with a copy of the investigation reports which have been requested, in addition, of course, to the supporting evidence of the indictment.

(Mr. Hassan, Sudan)

Our call for arbitration and for patience on this subject stems from our deep belief in the need to maintain international peace and security. That was the basis of Libya's readiness to cooperate with all the parties to the current dispute in order to resolve it peacefully. That is explicitly called for in Chapter VI of the United Nations Charter, in Article 33.

My delegation is gravely concerned about the use of the term "terrorism" in today's world. The way in which the term is used and the fact that some are being branded as terrorists without legal evidence or logical explanation have in themselves become a form of terrorism. Instead of being the forum for the settlement of disputes between Member States or for the maintenance of international peace and security, the Security Council has become a forum for the imposition of the will and interests of the strong on the weak.

The draft resolution before the Council constitutes an escalation of the confrontation between the Libyan Arab Jamahiriya and the States concerned. It does not relieve tension. It does not give room for the Secretary-General to intervene to avoid the dangers of the expected confrontation after its adoption.

My delegation pays tribute to the Under-Secretary-General for Political Affairs of the League of Arab States for his statement, and it pays tribute to the position of the League of Arab States as expressed in its resolution 5158 on this subject, adopted by its Council on 16 January this year. My delegation hopes that the members of the Council will respond favourably to that position in the discharge of their responsibility for the maintenance of international peace and security.

My delegation deeply regrets the accidents that have taken a toll of innocent lives, and expresses its condolences and sympathy to the bereaved

(Mr. Hassan, Sudan)

families. We also strongly condemn terrorism in all shapes and forms. My delegation supports the call by the Libyan Arab Jamahiriya for the convening of a special session of the General Assembly to consider and define international terrorism and ways in which to eradicate it.

The PRESIDENT: I thank the representative of Sudan for the kind words he addressed to me.

The next speaker is the representative of Iraq. I invite him to take a place at the Council table and to make his statement.

Mr. KADRAT (Iraq) (interpretation from Arabic): At the outset allow me, Sir, to congratulate you on your assumption of the presidency of the Security Council for the current month. I also take this opportunity to pay tribute to your predecessor, Ambassador Vorontsov, of the Russian Federation, for the skilful way in which he presided over the Council last month.

I should also like to congratulate Mr. Boutros Boutros Ghali on the assumption of his important post of Secretary-General of the United Nations during the current difficult international period, and I congratulate the new members of the Council.

The Libyan Arab Jamahiriya has repeatedly declared that it condemns terrorism and that it will not allow its territory or its nationals to be used for the commission of acts of terrorism, and that indeed Libya itself has been a victim of terrorism.

Following the receipt of indictments against two Libyan nationals, indictments which are not based on any legal proof or evidence, the Jamahiriya officially declared, through high-ranking officials and the mass media, and by every other available means, that it would address the issue with the utmost care and seriousness, in compliance with international law, including sovereign rights and the need to ensure justice for the accused and the

(Mr. Kadrat, Iraq)

victims. Libya announced that it would welcome the setting up of a commission of Arab and international jurists to pursue the investigation and trial. It also expressed its willingness to cooperate with any impartial international judicial authority. However, unfortunately, Libya received from the United States and Britain nothing but a refusal to cooperate in reaching a peaceful settlement of the dispute by judicial means.

Chapter VI of the United Nations Charter, entitled "Pacific settlement of disputes", contains in paragraph 1 of Article 33 the following stipulation:

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement ...".

In that connection, I wish to cite two letters addressed by the Secretary of the People's Committee for Foreign Liaison and International Cooperation of the Libyan Arab Jamahiriya to the American Secretary of State and the British Foreign Secretary on the application of Article 14 of the 1971 Montreal Convention for the suppression of unlawful acts against the safety of civil aviation.

Furthermore, there is no precedent for such judicial disputes being brought before the Security Council. Here I wish to recall resolution 5156, adopted by the Council of the League of Arab States on 5 December 1991, which provided for an invitation to constitute a joint commission of the United Nations and the League of Arab States and called on the Secretary-General of the League of Arab States to maintain contacts with the United Nations so that the United Nations Secretary-General would make all possible efforts with the parties concerned to reach a peaceful settlement of the matter.

(Mr. Kadrat, Iraq)

We appeal to the international community and world public opinion to stand on the side of justice in order to uphold the principles of the United Nations Charter. We emphasize the need to resolve the dispute by negotiations, mediation and judicial machinery, with the cooperation of all the parties concerned, to establish all the relevant facts of the matter.

Iraq expresses its support for the right of the Libyan Arab Jamahiriya to defend its national territory, homeland and people in compliance with the principles of universal justice.

The PRESIDENT: I thank the representative of Iraq for his kind words addressed to me.

The next speaker is the representative of Congo. I invite him to take a place at the Council table and to make his statement.

Mr. ADOUKI (Congo) (interpretation from French): I am pleased to be participating in this meeting of the Security Council under the presidency of the Permanent Representative of the United Kingdom, a country with a long legal tradition highly respected by Congo. In the present circumstances, Mr. President, your talents will greatly assist the Security Council as it considers the serious question of international terrrorism.

My delegation wishes also to pay a tribute to Ambassador Vorontsov for the manner in which he conducted the work of the Council in December 1991. We also congratulate the new members of the Security Council.

My delegation wishes to take this opportunity to assure the Secretary-General, Mr. Boutros Boutros Ghali, of our full cooperation at this difficult moment when he takes the helm of the United Nations Secretariat. We convey our best wishes to his predecessor, Mr. Javier Perez de Cuellar.

In the harsh reality of the turmoil of a mad world, it is hard for the international community to shut its eyes and remain passive, or selectively to make mere gestures towards calming the trembling and the horror. We are horrified that countries that have regained freedom are experiencing famine and distress. We are horrified also at the absurd wars among those who once were fellow-countrymen that had never known they were enemies. Africa has been stricken by this horror. In that sad connection I think particularly of the current situation in Somalia. Other continents too are the site of such tribal wars that unfortunately claim dozens of innocent civilian victims.

Today the Security Council is meeting to discuss another kind of horror: international terrorism. I wish to comment briefly on that subject - indeed to testify.

The last time I spoke on the question of terrorism was during a meeting of the Sixth Committee at the forty-sixth session of the General Assembly,

(Mr. Adouki, Congo)

which was discussing measures to prevent international terrorism. I said that because of its violence, the losses it causes and the anxiety it generates, that problem was one from which Congo, like other countries, had, many times in its history, suffered greatly. In September 1989, for example, the in-flight explosion of a UTA DC-10 civil flight from Brazzaville to Paris caused the death of, inter alia, 49 Congolese citizens. That dark event created a chronic sense of anxiety in my country. Unhealed wounds are engraved in the memories of many Congolese families, and throughout the country.

Current events amply demonstrate that terrorism is a major challenge to our shared modern history. It is to the advantage of Governments to unite their efforts to fight terrorism vigorously.

Congo has enacted a number of regulatory and legislative measures that buttress the once-weak foundation of our legal anti-terrorism arsenal. We have also made efforts in the framework of international cooperation; these have resulted in Congo's accession to various conventions. The international community knows how important and logical it was for Congo to support General Assembly resolution 44/29 of 4 December 1989, which unequivocally condemned all terrorist acts, methods and practices.

Today, as the Security Council focuses on the specific situation arising from the in-flight destruction of Pan Am flight 103 and UTA flight 772, Congo feels encouraged, because Libya, against which allegations have been made, has expressed its willingness to cooperate in determining the truth.

Congo has never vacillated in its struggle against terrorism or in its commitment to the principles upheld by the international community.

The PRESIDENT (interpretation from French): I thank the representative of Congo for the kind words he addressed to me.

(spoke in English)

The next speaker is the representative of Italy. I invite him to take a place at the Council table and to make his statement.

Mr. TRAXLER (Italy): At the outset, Sir, allow me to express to you my sincerest congratulations on your assumption of the presidency of the Council for the month of January, as well as the appreciation of my delegation for the way in which your predecessor, Ambassador Vorontsov, conducted the business of the Council.

At the same time, I wish to express, on behalf of my Government, our sincerest congratulations to Mr. Boutros Boutros Ghali on his unanimous election to the post of Secretary-General, as well as our sincerest wishes for success in his most exacting and most demanding task.

I am here today to reaffirm the strong condemnation by the Italian Government of acts of international terrorism in any form, acts which endanger - at the worst destroy - innocent lives and affect relations between States. My country has lost many human lives through the onslaught of internal terrorism. We have conducted a very strong fight within our borders against terrorism. We are therefore very deeply concerned by any occurrence of activities of international terrorism, particularly those directed against the security of civil aviation.

(Mr. Traxler, Italy)

These acts of unlawful interference against the peaceful exercise of civil aviation are profoundly disruptive, not only for the States affected by those acts but also for the international community as a whole. In the opinion of my Government, they therefore require that common actions be taken by the international community in order to bring to justice those who are charged with these crimes.

For those reasons, my country has favoured the involvement of the United Nations in connection with the need to identify and to prosecute those responsible for the terrorist acts conducted against the Pan Am and UTA flights that are the subject of the Council's deliberations today.

In this context, the Italian Government wishes to express appreciation for the draft resolution that is about to be adopted by the Security Council. It fervently hopes that the Libyan authorities will promptly and effectively comply with the draft resolution's provisions.

At the same time, we wish to express our deep faith in the efficacy of the efforts of the Secretary-General in securing a full and effective response from the Libyan Government.

The PRESIDENT: I thank the representative of Italy for his kind words addressed to me.

The next speaker is the representative of Canada. I invite him to take a place at the Council table and to make his statement.

Mr. KIRSCH (Canada): May I first of all express to you, Sir, my delegation's congratulations on your assumption of the presidency of the Security Council for this month, as well as our appreciation for the excellent manner in which your predecessor, Ambassador Vorontsov, conducted the Council's business during the month of December.

(Mr. Kirsch, Canada)

I should like to take this opportunity also to express our congratulations to the Secretary-General, Mr. Boutros Boutros Ghali, on his election, and to extend to him the assurances of our full cooperation.

Finally, I should like to welcome those States that have just become members of the Security Council this month.

Canada is one of the countries which had nationals killed in the destruction of Pan Am flight 103 over Lockerbie, Scotland, on 21 December 1988, and in the bombing of UTA flight 772 over Niger on 19 September 1989. Canada is entirely committed to putting an end to all forms of international terrorism. The international community has been for too long the victim of the type of terrorism in which States have been involved directly or indirectly. Addressing this reprehensible activity in a United Nations forum is entirely consistent with the renewed spirit and effectiveness of this Organization. Canada believes that attacks against civilian targets are abhorrent threats to international peace and security, and they must be addressed by the international community as a whole.

Moreover, the concern of the Security Council in respect of matters of international terrorism is not new. In 1989 my delegation was pleased to be involved in the process that led to the adoption by the Security Council of resolution 635 (1989), which condemned all acts of unlawful interference against the security of civil aviation. The Council now has the opportunity to build upon its involvement and to make a constructive contribution to bringing such criminal acts to an end.

In bilateral contacts, Canada has already underlined the seriousness with which it regards this matter. We have urged Libya to cooperate fully with the British, French and United States Governments in respect of this matter. In

(Mr. Kirsch, Canada)

the absence of a satisfactory Libyan response to the various bilateral démarches made to it and, given the non-acceptance to date by Libya of its responsibilities in these two tragedies, the Government of Canada considers that the draft resolution submitted to the Security Council represents the best course of action for the international community.

My Government therefore strongly endorses this draft resolution and urges the Security Council to adopt it.

The PRESIDENT: I thank the representative of Canada for his kind words addressed to me.

The next speaker is the representative of Mauritania. I invite him to take a place at the Council table and to make his statement.

Mr. OULD MOHAMED MAHMOUD (Mauritania) (interpretation from Arabic): I have the honour to participate, on behalf of the delegations of the five States members of the Arab Maghreb Union - of which my country has the honour of being Chairman this month - in the Security Council's discussion of the item before it today.

At the outset, I wish to express to you, Sir, our delegation's warm congratulations on your assumption of the presidency of the Security Council for this month. Your great diplomatic experience is, we are sure, the best guarantee that the Council's work will be successfully conducted.

We wish also to express to your predecessor, Ambassador Vorontsov of the Russian Federation, our congratulations on the wise manner in which he conducted the Council's work last month.

I should like to take this opportunity also to extend once again to the new Secretary-General, Mr. Boutros Boutros Ghali, our five delegations' sincere congratulations and to assure him of the readiness of all the

(Mr. Ould Mohamed Mahmoud, Mauritania)

institutions of our Union to cooperate with him in order to facilitate his tasks relating to the maintenance of international peace and security in accordance with the Charter of the United Nations. His personal qualities, his wide culture, his well-known diplomatic experience are all guarantees of success in progress by the United Nations towards the maintenance of international peace and security and the achievement of the objectives of the Charter.

I wish also to welcome the new members of the Security Council and to wish them all success in their lofty but difficult task. I also thank the outgoing members for the strenuous efforts they made in the past two years, along with all the other members of the Council.

(Mr. Ould Mohamed Mahmoud, Mauritania)

(spoke in French)

Our delegations have been deeply saddened by the news of the air accident near Strasbourg which took the lives of 87 people. We address our sincere condolences to the friendly French delegation and to the families of the victims.

The subject the Council is considering today is undoubtedly one of grave concern to the whole international community. Indeed, acts of terrorism have caused the deaths of many innocent victims throughout the world; hence the great interest of this community in seeing terrorism eradicated.

Like the vast majority of States Members of the United Nations, Tunisia, Morocco, Libya, Algeria and Mauritania energetically condemn this scourge in all its forms. They assert their determination to work towards the total elimination of all its manifestations from whatever source and whoever the perpetrators may be.

At a time when international relations can be improved, thanks to the end of the cold war, and when the easing of tension that has followed the cold war can only promote the systematic recourse to dialogue and compromise to solve all disputes, it is highly desirable and appropriate for the spirit of dialogue and compromise to replace the logic of confrontation. That logic not only clashes with the atmosphere of peace and stability for which humanity longs in order to devote itself to the problems that threaten its existence, but also is in contradiction with the principles and purposes of the Charter, which in Article 2, paragraph 4, calls upon the Members of our Organization to refrain in their international relations from the threat or use of force.

Furthermore, when there is a dispute between two or more States, the Charter in Article 33 calls upon them

(Mr. Ould Mohamed Mahmoud, Mauritania)

"first of all, [to] seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".

In the present case, which would appear to be a question essentially juridical in nature - a question for the settlement of which the Libyan side has made concrete proposals for cooperation - it would be highly desirable for the Council to explore all ways and means likely to lead to a peaceful solution based on international legality. In any event, it should take into account the many appeals to wisdom and moderation made by the Arab Maghreb Union, the Organization of the Islamic Conference, and the League of Arab States in particular.

I should like to express the concern of our delegations at seeing the Security Council, which bears the primary responsibility for ensuring international peace and security, having recourse to controversial procedures that might negatively affect the authority of its decisions and also risk setting a dangerous precedent.

In a world which has resolutely turned its back on the period of sterile confrontation, it should be the desire of all to promote recourse in disputes to peaceful means of conflict resolution. Dialogue and joint action are prescribed by the Charter and should remain the only tools and means to achieve that goal.

The delegations of the members of the Arab Maghreb Union sincerely believe that with good will all problems, no matter how complex, can find equitable solutions, in such a way as to enhance the prestige of our Organization and bring about understanding and harmony among all peoples whose only wish is to live in peace.

The PRESIDENT (interpretation from French): I thank the representative of Mauritania for his kind words addressed to me.

(spoke in English)

The next speaker is the representative of Yemen. I invite him to take a place at the Council table and to make his statement.

Mr. BASALAMAH (Yemen) (interpretation from Arabic): My delegation is pleased to express to you, Sir, its warmest congratulations on your assumption of the presidency of the Security Council for this month. We are confident that your experience and well-known ability will lead the Council to success in its deliberations. I am also pleased to express our satisfaction at the good relations between our two countries, the United Kingdom and the Republic of Yemen - relations that promote the common interests of our two peoples.

I should also like to express our appreciation to Ambassador Vorontsov, the representative of the Russian Federation, for his wise guidance of the work of the Security Council last month.

I take this opportunity also to express our appreciation to all the countries that have praised the role played by Yemen during its membership of the Security Council. We express our warmest congratulations to the new Council members and we wish them every success in their tasks.

I should also like to express our pleasure at seeing Mr. Boutros Boutros Ghali shouldering his responsibilities as Secretary-General of the United Nations. We are confident that his great efficiency and well-known prudence will enable the international Organization to play a more positive role in solving all international problems in a just and peaceful manner, so as to achieve the objectives emphasized in the Charter

(Mr. Basalamah, Yemen)

of the United Nations. In this connection, we should also like to commend the positive role played by his predecessor, Mr. Javier Perez de Cuellar, in the efforts to achieve the principles and purposes of the Charter in various fields of international life.

The Security Council is considering today a new question in the framework of its appointed tasks. This question is undoubtedly a part of the new problems that will greatly affect the nature of international relations in the future and the role of the United Nations in regard to them. It will also have important repercussions and reflections on the Charter of the United Nations and international law. It also re-emphasizes the importance of not violating the principles of the United Nations in conflict resolution and the need to continuously observe international law, particularly the Charter of the United Nations, so as to be able to deal with international issues in a sound legal manner.

(Mr. Basalamah, Yemen)

Yemen, while condemning anew all forms of terrorism and all acts that might endanger or take innocent lives, wishes to express its serious concern over the loss of lives in civil aviation incidents, including the two incidents under consideration in the Security Council today. At the same time, it is our opinion that this question should be dealt with in a legal framework leading to the punishment of the perpetrators in a manner consonant with the letter and spirit of international law. We believe that the adoption of that method would be conducive to the maintenance of the international peace and security the Council seeks to realize.

In that connection we have witnessed the positive response of the Libyan authorities and their willingness to reach in a peaceful and legal manner a suitable solution that will achieve the desired objective. The question before the Council today concerns a fraternal Arab country and people. It is important that it be addressed within the framework of the purposes and principles of the United Nations Charter and international law. It is equally important that there should be no repetition of the serious developments the Arab region has witnessed in the past - developments that affected us as Arabs. We hope that adherence to the framework of international law, as emphasized in the stated positions of the Libyan Government and the resolution adopted by League of Arab States, which dealt with the modalities of a solution to this problem, will meet with a positive response on the part of the Council. We believe that there is still time and opportunity to find a suitable and peaceful solution that can ensure the sovereignty of law and spare us the dangers that might ensue from any hasty determination of the framework for a solution.

(Mr. Basalamah, Yemen)

In conclusion, we hope that the Security Council will deal with the issue in a wise and balanced manner that will guarantee international legality and justice and ensure the safety and stability of all countries.

The PRESIDENT: I thank the representative of Yemen for his kind words addressed to me.

Mr. SNOUSSI (Morocco)(interpretation from French): I should like first to reiterate to you, Sir, my congratulations on your assumption of the presidency of the Council for this month and to repeat my congratulations to your predecessor, Mr. Vorontsov, who conducted our proceedings last month with such effectiveness and success.

My country has participated with great interest in the consultations that were held in recent days on the subject of international terrorism. Morocco has never been either acquiescent or indifferent to that phenomenon and has always energetically condemned terrorism in all its forms. Our vigilance in this field has always, I believe, been wholly exemplary. Morocco has always cooperated actively in the United Nations and in all regional and international bodies in the drafting and implementation of conventions and resolutions against terrorism.

Our country has always reaffirmed its complete solidarity with those States that have denounced and condemned international terrorism and reaffirms its unconditional contribution to all efforts undertaken to deter and punish such outrages without compromise.

Throughout the course of consultations I have had occasion to state my country's unswerving devotion to the principles of the United Nations Charter and its noble objectives. It is our profound conviction that the question before the Council is in fact a last vestige of a period of painful

(Mr. Snoussi, Morocco)

confrontation that marked a world order we all hope has now become forever a thing of the past. However, those concerns, which felt bound to express throughout the discussions, have been motivated solely by our sincere wish to see that the action taken by the Council be in conformity with the principles of international law. We were also concerned that the Council not associate itself with any precedent that might prove dangerous or regrettable in the future.

My country's position with regard to the implementation of this common policy may have appeared somewhat ambiguous. In fact, it is based on Morocco's sincere wish to ensure that the contemplated recommendations would fall within the framework of and respect international law.

In this particular case we feel at this stage that the cooperation requested is fully justified as concerns the establishment of facts, particularly the identity of the suspects in the case. In light of the serious allegations made by the complainant States, the Libyan authorities will, I am sure, do everything possible to cooperate fully in arriving at the truth. The Minister for Strategic Industries of Libya has just given us his assurance that this is the case.

However, with regard to the implications to be drawn from the responsibility of such persons, when it is finally demonstrated, my country feels that we are touching on a principle of international law that is well established in both unwritten law and in various instruments, as well as in several recommendations of the United Nations General Assembly. That is the principle of "extradite or prosecute".

In this instance, Morocco cannot share the view that adoption of the draft resolution before us today enshrines any exception to that uncontested

(Mr. Snoussi, Morocco)

principle of international law. Our membership of the Council and our respect for it makes it incumbent upon us to draw attention at all times to this fundamental aspect of the problem facing us today. Nor, as a Maghreb State and a part of the Arab nation, can we ignore the fact that the State being singled out here is, like us, an Arab and Muslim country and a member of the Arab Maghreb Union. That State must be allowed to state its position, enjoy its rights and demontrate its goodwill.

The participation of the Secretary-General, who is known by all for his devotion to respect for international law and to upholding the principles of the Charter, is our best guarantee that we are moving towards cooperation by all parties in establishing the truth and in implementing the legal proceedings already in train. His wisdom and experience will, I am sure, enable us to overcome all the difficulties with which the problem of international terrorism is fraught and will surely be a constructive contribution that, while respecting established legal norms, will enable us to achieve the goals we have set for ourselves, namely, the punishment of the guilty and deterrence of such acts in the future, with the cooperation of all.

(Mr. Snoussi, Morocco)

I would not like to conclude my statement without expressing most warmly my thanks for the understanding and cooperation my delegation enjoyed from the representatives of three friendly countries - France, the United States of America and the United Kingdom of Great Britain and Northern Ireland - the sponsors of the draft resolution before our Council. These consultations made it possible for us to get together with the non-aligned group and explore all aspects of the problem.

The Kingdom of Morocco is particularly interested in contributing to bringing about harmony among the members of the international community and it will continue, as it has done in the past, to make every effort to reduce misunderstanding and problems of communication which have often complicated relations between certain States.

The PRESIDENT (interpretation from French): I thank the representative of Morocco for the kind words he addressed to me.

(continued in English)

I should like to inform the Council that I have received a letter from the representative of the Islamic Republic of Iran in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Zarif (Islamic Republic of Iran), took the place reserved for him at the side of the Council Chamber.

The PRESIDENT: I invite the representative of the Islamic Republic of Iran to take a place at the Council table and to make his statement.

Mr. ZARIF (Islamic Republic of Iran): Mr. President, my delegation and I are pleased to see you presiding over today's important proceedings, as well as over other crucial issues which the Security Council faces this month. We are confident that under your wise leadership and skilled diplomacy the Security Council will do its utmost to uphold the authority of the rules of international law and to cause fairness and justice to prevail. Felicitations and thanks are also due to Ambassador Vorontsov, Permanent Representative of the Russian Federation, for the excellent manner in which he guided the deliberations of the Council during the preceding month.

May I also take this opportunity to congratulate His Excellency Mr. Boutros Ghali, a distinguished diplomat of high calibre, for his very well-deserved election as Secretary-General of the United Nations. I wish also to congratule the new members of the Security Council and wish them all success.

The Security Council is meeting today to decide upon the circumstances of two tragic events: the crash of Pan Am flight 103 on 21 December 1988 and of UTA flight 772 on 19 September 1989. The first tragedy took the lives of 270 unsuspecting innocent people and the second resulted in 171 deaths. The issue before the Security Council is, therefore, one which involves a considerable measure of humanity. It is a question of human life; specifically, it is an attempt to preserve the most basic of human rights: the right to one's life. Thus, Council members are engaged in an endeavour to preserve this right and to make sure that tragedies of this sort do not occur

(Mr. Zarif, Islamic Republic of Iran)

again. This endeavour is most praiseworthy when it is initiated, deliberated and decided upon in accordance only with the rule of law.

Assuming that these tragedies are the result of terrorist acts, one cannot but lend full support to the attempts to establish responsibility for the acts that led to the deaths of so many innocent people. The Government of the Islamic Republic of Iran holds the view that all acts constituting an unlawful interference with international civil aviation affect the interests of the international community and must therefore be suppressed, whatever the situation or the motives of the offenders. As such, the offender or offenders in the present cases must be brought to justice.

In this context, the applicable rule of international law is not ambiguous. The 23 September 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation does not obligate the Libyan Arab Jamahiriya to extradite or surrender the alleged offenders to any other State that may also have jurisdiction to try them, provided that Libya, as a Contracting State, undertakes to make the offence mentioned in article 1 of the Convention punishable by severe penalties. Regrettably, the draft resolution before the Security Council goes beyond this explicit rule of international law. This departure from the established rule of law is augmented when the cooperative approach of the Government of the Libyan Arab Jamahiriya is taken into account. Libya has welcomed the possibility of a commission of Arab and international jurists following the course of the investigation which the Libyan authorities have initiated upon the requests of the States that have now sponsored the draft resolution. The Libyan Foreign Minister has announced, in his letter to the Secretary-General of the United Nations circulated as document S/23416, that the United States Administration

(Mr. Zarif, Islamic Republic of Iran)

and the British Government have been requested to nominate lawyers to monitor the fairness and propriety of the inquiries it initiated in that respect. Therefore, the Government of the Libyan Arab Jamahiriya has taken the necessary measures in accordance with article 5 of the Montreal Convention to establish jurisdiction in this case, and it has also gone out of its way to accommodate the sponsors of the draft resolution by inviting them and representatives of the international community to monitor its inquiry.

In this context, my Government endorses and subscribes to resolution No. 5158 of the Council of the League of Arab States, issued on 16 January 1992 and circulated as Security Council document S/23436.

In light of the above, and for the sake of the integrity of the Organization, we call upon the parties concerned to heed the principle of peaceful settlement of disputes in accordance with paragraph 1 of Article 33 of the United Nations Charter, which reads in part as follows:

> "The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement ...".

Within the broad context of this principle of the United Nations Charter, article 14 of the Montreal Convention of 1971 presents the solution in terms of arbitration. Paragraph 1 of article 14 reads in part as follows:

> "Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration."

(Mr. Zarif, Islamic Republic of Iran)

My delegation believes that the Libyan offer to submit the case to international arbitration is a prudent course of action which deserves the support of the international community. Such a course of action is consistent with both the letter and the spirit of international law and affords a greater degree of independent inquiry. Above all, it will preserve the integrity of the United Nations in general and the Security Council in particular.

The Government of the Islamic Republic of Iran wishes to reiterate that it has categorically condemned and continues to condemn all forms of international terrorism. In our view, all acts constituting unlawful interference with international civil aviation must be suppressed irrespective of the situation or the motives of the offender. To achieve this end, however, other laws are not to be violated; such practice becomes the fruit of the poisonous tree and thus unacceptable to men of reason.

The PRESIDENT: I thank the representative of the Islamic Republic of Iran for his kind words addressed to me.

I should like to inform the Council that I have received a letter dated 21 January 1992 from the Permanent Representative of Morocco to the United Nations, which reads as follows:

"I have the honour to request that the Security Council extend an invitation to His Excellency Ambassador Engin A. Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, to address the Council under rule 39 of its provisional rules of procedure during the Council's discussion of the item presently on its agenda."

That letter will be published as a document of the Security Council under the symbol S/23447.

If I hear no objection, I shall take it that the Council agrees to extend an invitation under rule 39 to Mr. Ansay.

There being no objection, it is so decided.

I invite Mr. Ansay to take a place at the Council table and to make his statement.

Mr. ANSAY: Mr. President, I have the honour to extend through you my thanks to the members of the Council for allowing me to speak on such an important issue.

At the outset I should like to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. We are confident that under your able steering the Council will reach a just decision.

Our congratulations go also to Ambassador Vorontsov, your predecessor.

I should also like to avail myself of the opportunity to welcome and congratulate most heartily Mr. Boutros Boutros Ghali, our new

(Mr. Ansay)

Secretary-General, on his assumption of this lofty and equally responsible position. We wish him luck and assure him of our full cooperation and strong support in his noble work.

The Organization of the Islamic Conference condemns terrorism in all its forms. This has been proclaimed in various OIC decisions and resolutions taken either at the meetings of its Foreign Ministers or Heads of State or Government.

Therefore, it is the OIC's principled position that the destruction of Pan Am flight 103 and the UTA flight of 19 September 1989 were heinous acts of terrorism which should be condemned and that all States and parties should assist in the apprehension and prosecution of those responsible for those criminal acts.

During its last summit meeting in Dakar, Senegal, the OIC adopted a resolution on the particular issue before us and, with your permission, Sir, I should like to inform the membership - as I have been instructed to do - on the content of that decision, resolution No. 20:

"Having considered the item related to the crisis involving an OIC Member State;

"Guided by the principles of the Charter which call for the promotion of solidarity among Member States;

"Abiding by the objectives and principles of the United Nations Charter which stipulate that all States are committed to refraining from the use or the threat of use of force in their international relations, the settlement of their disputes by peaceful means, respect for the independence of all Member States, and refraining from posing any threat to the sovereignty, territorial integrity and safety of their people;

(Mr. Ansay)

"Reaffirming its clear and unequivocal denunciation, on previous occasions, of all forms and types of terrorism, and its condemnation of all those who use or encourage it, be they individuals, groups or States; proceeding from the faith of the OIC Member States that terrorism runs counter to the Islamic values in which they believe, and which commit them never to tolerate or disregard terrorism, in so far as it contradicts the aspiration of individuals and Governments in the international community to a life of peace, where stability and security prevail;

"Taking note with great satisfaction of the declaration by the Libyan Jamahiriya that it denounces all forms and types of terrorism, and condemns all those that use or encourage it, and its willingness to cooperate with any international or regional judicial or humanitarian body in working for combating it; and in appreciation of the legal procedures it has taken in this connection;

"Expressing satisfaction with Libya's declaration that it is fully prepared to cooperate with the United States and the United Kingdom judicial authorities and that it welcomes visits by judges and investigators from the United States and the United Kingdom, so as to ensure the seriousness of the procedures and the impartiality of the investigations conducted in the charges levelled at some of its citizens and for the full truth to come to light regarding such charges;

"1. Takes note with satisfaction of Libya's confirmation that it denounces and condemns terrorism and that it is fully prepared to cooperate with any quarters fighting and working to combat terrorism, and

(Mr. Ansay)

commends the sensible way in which Libya has dealt with the threats directed against its territorial integrity and the security of its population;

"2. Expresses concern over the escalation of the crisis, and the reference to the possible use of force, which does not accord with the proper system of dealing with other States, the United Nations Charter, or international law; and calls for abiding by internationl conventions, and the use of dialogue and negotiations as a means of solving the disputes between States;

"3. Reaffirms its full solidarity with the Libyan Arab Jamahiriya and calls for averting any economic or military action against Libya;

"4. Requests the Secretary-General to follow up this question and submit a report thereon to the Member States."

The PRESIDENT: I thank the Permanent Observer of the Organization of the Islamic Conference for his kind words on my behalf.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. If I hear no objection, I shall take it that that is the case.

There being no objection, it is so decided.

I shall first call on those members of the Council who wish to make statements before the voting.

Mr. MUMBENGEGWI (Zimbabwe): Let me begin by congratulating you, Sir, on your assumption of the demanding task of presiding over the work of the Council for the month of January. The skills, both diplomatic and intellectual, that you have demonstrated in guiding the Council's work so far assure us that the Council is in good hands as it prepares for a

(Mr. Mumbengegwi, Zimbabwe)

history-making session at the highest level in the coming few days. We also take this opportunity to extend our warm appreciation to Ambassador Yuliy Vorontsov of the Russian Federation for the able and calm manner in which he guided the work of the Council last month, at a time when his own country was going through a momentous transformation.

Although I have had the opportunity to congratulate and welcome our Secretary-General on another occasion, allow me, Sir, to do so on this occasion, since it is the first formal meeting of the Council at which I have spoken since he assumed that high office. As one of the three African representatives on the Council, I could hardly disguise the fact that it is a source of special pride to see one of the most distinguished sons of Africa, Mr. Boutros Boutros Ghali, head the Organization at such a momentous juncture in its history.

The issue before the Council today is a grave one. The wanton and wilful taking of human life that resulted from the terrorist acts committed against Pan Am flight 103 in December 1988 and UTA flight 772 in September 1989 must be condemned. Zimbabwe, which also has been a target of acts of terrorism over several years, condemns terrorism in all its forms. We believe that there should be no place for perpetrators of acts of terrorism to hide. Terrorism, in all its forms, must be punished. It is our view that international terrorism constitutes a grave threat to international peace and security. The 1976 report of the Secretary-General aptly characterized it as

> "a threat to the fabric of organized society and a potential danger to all Governments and peoples". (A/31/1/Add.1, part VI)

The Council is, therefore, doing the right thing in addressing this issue today, as it did in 1970, when it adopted resolution 286 (1970), and in 1989, when it adopted resolution 635 (1989).

(Mr. Mumbengegwi, Zimbabwe)

In our view, the draft resolution on which we are about to take action seeks to achieve two main objectives. First, it seeks to send a clear message that the Council is determined to deal firmly with terrorism. Secondly, it seeks to ensure that the accused are brought to trial. It is Zimbabwe's view that this has to be achieved on the basis of the established legal norms and the existing international legal instruments applicable to acts of terrorism.

My Government believes that in this regard the Security Council should be guided by the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. That Convention, like its sister Convention on the Suppression of Unlawful Seizure of Aircraft - The Hague Convention - designed to combat hijacking, which is another act of terrorism, seeks to implement the traditional precept of aut dedere, aut punire, generally translated as "extradite or punish". My Government understands the sensitivity that has always characterized the issue of extradition. The extradition of one's own nationals is impermissible in the laws of many States. This is why the existing international legal instruments make it clear that if the State holding the alleged offender does not extradite it shall be obliged, without any exception whatsoever, to submit the case to its competent authorities for the purpose of prosecution.

Zimbabwe welcomes the clear role which the draft resolution gives to the Secretary-General in resolving the dispute before the Council. We believe that on a matter of grave importance such as the one before us it is prudent and appropriate that the Council take full advantage of the good offices of the Secretary-General. It is our sincere hope that when he reports back to the Council on the outcome of his efforts it will be possible to arrive at arrangements satisfactory to all parties concerned.

The PRESIDENT: I thank the representative of Zimbabwe for his kind words addressed to me.

Mr. POSSO SERRANO (Ecuador) (interpretation from Spanish): Since this is the first time my delegation has spoken this month it wishes to tell you, Sir, how happy we have been at the very active and efficient way in which you have been conducting the Council's work. We also wish to express our gratitude to the Permanent Representative of the Russian Federation for the diplomatic skill, kindness and courtesy with which he conducted our discussions last month.

We welcome the presence here of the new Secretary-General. We wish to repeat our willingness to cooperate fully and constantly with him.

We also wish warmly to welcome officially our new colleagues, the representatives of Cape Verde, Hungary, Japan, Morocco and Venezuela.

The President of Ecuador, Dr. Rodrigo Borja, has said on many occasions that our country is an island of peace. That is not a gratuitous or unfounded assertion. In the context of our subcontinent Ecuador is one of the countries which suffer least the effects of violence. Terrorism is unknown. This puts an unavoidable responsibility on the Ecuadorian authorities, which must maintain this island of peace and defend internal peace as a true national heritage.

At the international level, therefore, Ecuador considers it to be its duty to cooperate in actions directed towards eliminating violent aggression and combating terrorism in any form. Ecuador must express its total condemnation of any acts of terrorism or violence and any violation of international peace and security or threat to it.

(Mr. Posso Serrano, Ecuador)

Those are the basic reasons that prompt my delegation to vote for the draft resolution. Ecuador is convinced that that is the only way to express our rejection of violence and criminal aggression.

In addition, the delegation of Ecuador is convinced that the Security Council is called upon to send a clear warning to halt any encouragement, even if simply through tolerance, of acts of terrorism.

However, my delegation worked with the other non-aligned countries to ensure that the draft resolution would not be misinterpreted or be a negative precedent which would run counter to the regular powers of United Nations bodies or which could be used as an example for possible action or intervention at a later date. Ecuador also expressed its belief that in this case, as in any other, it is essential to act in such a way that there can be no misinterpretation or prejudging of special situations, and to ensure that actions shall be subject to the clear legal principles within the competence of States, in particular with regard to extradition. In addition, the delegation of Ecuador agreed with the other non-aligned countries about the need to establish a reliable, step-by-step process to deal with the claims made by the United States, France and the United Kingdom against Libya and to preserve the right of the Libyan Government to clarify its position and fulfil its obligations.

Lastly, the delegation of Ecuador trusts that the draft resolution will be taken in context and used only for its unique purposes, to deal with those involved in acts of terrorism and the meting out of punishment, if that is decided upon.

The PRESIDENT: I thank the representative of Ecuador for his kind words addressed to me.

Mr. JESUS (Cape Verde): My delegation takes much pleasure in seeing you, Sir, presiding over the Council's work for the month of January.

Your experienced guidance and dedication have already led us to produce many important decisions in the course of this month, which give us the assurance that much more will be accomplished by the Council under your disciplined and active leadership.

To your predecessor in the presidency, Ambassador Vorontsov of the Russian Federation, go our congratulations on the skilful and professional manner in which he led the Council's deliberations last month.

My delegation is very pleased to see here with us the new Secretary-General, Mr. Boutros Ghali. As he starts his important mandate and assumes his high and sometimes delicate responsibilities, we wish him much success and happiness.

Cape Verde as a matter of principle condemns, in the strongest possible way, acts of international terrorism, by whomever perpetrated. Nothing can justify the use of violence against targets which causes the loss of life of innocent victims and creates a general climate of insecurity.

(Mr. Jesus, Cape Verde)

We believe that international terrorism should be eliminated once and for all, and that the United Nations should play a major role in attaining that goal.

We call on all those that have in one way or another and for whatever purpose promoted, supported or engaged themselves, directly or indirectly, in acts of international terrorism to desist from that abhorrent practice, for it is wrong and attains no objective other than inflicting pain and suffering on innocent victims and their families.

We have joined in the condemnation of the outrageous downing of Pan Am flight 103 and UTA flight 772. We share the pain and suffering of those who lost loved ones in these two tragic incidents. The authors of these heinous crimes should be tried and appropriately punished.

These incidents have added much confusion and contributed substantially to a climate of insecurity in civil aviation. It is important - and it is high time - that the security of civil aviation be restored, so that anyone taking a plane can travel safely, without fear of any terrorist act. It is our hope that today's decision by the Security Council will be a positive turning point in that respect.

In voting in favour of the draft resolution before the Council, my country will signal its strong condemnation of international terrorism and its willingness to join its voice to those of others that want this abominable practice of violence eliminated. Our positive vote will also reflect our strong view that the authors of any such crimes should be brought to justice and punished according to the law.

(Mr. Jesus, Cape Verde)

Our vote, however, cannot and must not be interpreted or construed in any way as favouring the setting of any precedent that could change the well-established rules and international practice on extradition. Like the constitutions of many other countries, our Constitution states, in its article 33, that in no circumstances should any Cape Verdean citizen be extradited from Cape Verde. We believe that to be the expression of a principle dear to all countries, a principle that should be preserved. As a small nation we hold dear respect for the norms and principles of international law that over the centuries have served nations well.

In attempting to find a solution to an episode related to specific circumstances - however pernicious that episode may be and however much it is to be rejected - one should not lose a sense of the broader perspective, and one should carefully resist the temptation to create a legal entanglement to which we might all fall victim in different circumstances.

We are of the view that at all times this case should be handled with due respect for the principle of the peaceful settlement of disputes, and within the boundaries of international law. In this respect, we expect the Secretary-General to play a pivotal role in helping to bring about a negotiated solution.

Those are the parameters within which our affirmative vote on the draft resolution has to be seen.

The PRESIDENT: I thank the representative of Cape Verde for his kind words addressed to me.

(The President)

I shall now put to the vote the draft resolution contained in document S/23422.

A vote was taken by show of hands.

In favour: Austria, Belgium, Cape Verde, China, Ecuador, France, Hungary, India, Japan, Morocco, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zimbabwe

The PRESIDENT: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 731 (1992).

I shall call now on those members of the Council who wish to make statements following the voting.

Mr. PICKERING (United States of America): In adopting resolution 731 (1992), the Security Council has again demonstrated the important role which it should play in this new and hopeful era of international relations. Its responsibilities for international peace and security are paramount, and it has shown again that it takes such responsibilities with the utmost seriousness.

The Council has been confronted with the extraordinary situation of a State and its officials which are implicated in two ghastly bombings of civilian airliners. This is a situation to which standard procedures are clearly inapplicable. The effects of such conduct on international peace and security are clear and inescapable.

The Governments of France, the United Kingdom and the United States have presented to this Council the reports of investigations which implicate officials of the Libyan Government in the bombings of Pan Am flight 103 over Scotland and UTA flight 772 over Niger. Four hundred forty-one completely

(Mr. Pickering, United States)

innocent people from 32 countries, including from seven of the members of this Council, were murdered in an act of blatant, cold-blooded and brutal terrorism.

The issue at hand is not some difference of opinion or approach that can be mediated or negotiated. It is, as the Security Council has just recognized, conduct threatening to us all, and directly a threat to international peace and security. The mandate of the Security Council requires that the Council squarely face its responsibilities in this case. It must not be distracted by Libyan attempts to convert this issue of international peace and security into one of bilateral differences.

The resolution just adopted responds to a special situation that has been brought before this Council. It makes a straightforward request of Libya: that it cooperate fully in turning over its officials who have been indicted or implicated in these bombings and that it take concrete actions to conduct itself as a law-abiding State. It also calls upon the Secretary-General to add his efforts to those of the many States encouraging Libya to comply fully and effectively with this resolution. The resolution makes it clear that what the Council is seeking to ensure that those accused be tried promptly in accordance with the tenets of international law. The resolution provides that the people accused be simply and directly turned over to the judicial authorities of the Governments which are competent under international law to try them.

Until now, Libya has refused to respond to those requests and has sought to evade its responsibilities and to procrastinate. While Libyan efforts to obscure the nature of the issue before the Council have included explicit agreement that its nationals may be tried elsewhere, those efforts also

(Mr. Pickering, United States)

involve tortured attempts to identify or create venues that could reduce and even negate the value of the evidence so painfully collected in long and thorough investigations by the requesting States.

In adopting this resolution the Council has responded in a careful and prudent manner to a unique situation involving clear implications of State-sponsored terrorist attacks on civil aviation. The Council has clearly reaffirmed the right of all States in accordance with the Charter to protect their citizens. The resolution makes it clear that neither Libya nor indeed any other State can seek to hide support for international terrorism behind traditional principles of international law and State practice. The Council was faced in this case with clear implications of Government involvement in terrorism as well as with the absence of an independent judiciary in the implicated State. Faced with conduct of this nature, the Council had to act to deal with threats to international peace and security stemming from extremely serious terrorist attacks, and it did so with firmness, dignity, determination and courage. The Council's action thus sends the clearest possible signal that the international community will not tolerate such conduct.

(Mr. Pickering, United States)

We now hope that Libya will respond effectively, and do so rapidly. The voice of the international community in this regard is clear and determined. The Council expects Libyan compliance with the resolution which it has just adopted. The enormity of the crimes committed and the onslaught against international peace and security demand no less. The Council will be watching carefully how Libya responds. The Council will proceed in a step-by-step manner, I am sure, to maintain its commitment to international peace and security. It will continue to ensure that its voice and its decisions do all that is possible to persuade Libya, and any other States that might be motivated in the future to act as Libya has, to cease such actions now and in the future. If further action should be necessary, and we hope it will not be, we are convinced that the Council is ready on a continuing basis to face up to its full responsibilities.

Mr. ROCHEREAU DE LA SABLIERE (France) (interpretation from French): The Governments of France, the United Kingdom and the United States each published on 27 November last a national communiqué conveying to the Libyan authorities specific requests connected with the legal procedures under way, following the attacks against UTA flight 772 and Pan Am flight 103; and, together, they published a joint communiqué recalling these requests and calling upon the Libyan authorities to comply with them without delay. To date, the Libyan authorities have not responded satisfactorily to these requests.

The Security Council has had occasion repeatedly to condemn actions against the security of civil aviation and to call for the strengthening of cooperation between all States in order to prevent or punish all acts of international terrorism, and for the prosecution of the perpetrators of such acts.

(Mr. Rochereau de la Sabliere, France)

The French Government has, within the United Nations, repeatedly denounced international terrorism. This is a scourge that in itself constitutes a threat to international peace and security. It blindly endangers citizens of all States. All appropriate means must be used to eradicate it.

That is the spirit in which France has undertaken its action. The deliberate and wilful destruction of these aircraft, causing the death of hundreds of victims, is a clear-cut case of international terrorism. The exceptional gravity of these attacks and the considerations connected with the restoration of law and security justify this action in the Security Council. This action, motivated by these specific cases of international terrorism, cannot constitute a precedent.

In these circumstances, France hopes that the unanimous reaction of the international community, expressed by the Security Council in its resolution 731 (1992), which we have just adopted, will induce the Libyan authorities to respond very quickly to the requests of the judicial authorities conducting the investigation into the heinous attacks committed against UTA flight 772 and Pan Am flight 103, which claimed 441 victims coming from various parts of the world.

Mr. NOTERDAEME (Belgium) (interpretation from French): Belgium has always condemned recourse to international terrorism in all its forms and whatever attempts are made to justify it. This attitude is based on international law and the principles of the Charter. Moreover, it has been repeatedly confirmed by the Security Council.

(Mr. Noterdaeme, Belgium)

The recent upheavals in the world political context provide the international community with possibilities for action to attempt to control this phenomenon. Belgium believes that all States must cooperate in developing and implementing measures to prevent all acts of terrorism. In many cases, these actually represent a threat to international peace and security. Accordingly, they must be resolutely combated. In accordance with the preventive approach, we should also cut off potential terrorists from their command centres.

Clearly, terrorist actions are more often than not possible only with the active or passive support of certain States, in flagrant violation of the legal commitments and moral values which they profess. Belgium denounces and condemns any relationship between States and terrorist groups and hopes that the States about which allegations are made in this respect will unambiguously reaffirm their commitment to ending any form of collusion with international terrorism.

More specifically, our Council has had before it today a draft resolution relating to the in-flight destruction of Pan Am and UTA aircraft. First and foremost, Belgium wishes here again to pay a tribute to the innocent victims of these two attacks, including a Belgian national.

Those are extremely serious indications of the responsibility of Libyan officials in the destruction of these two aircraft in flight and the death of all their passengers. It is Libya's responsibility to cooperate fully with the legal authorities of the States directly concerned in these two attacks, so that responsibility can be determined once and for all.

Over and above these two particular cases, the resolution that the Council has just adopted should, in my country's opinion, constitute a clear-cut reaffirmation by the international community of its condemnation and

(Mr. Noterdaeme, Belgium)

total rejection of international terrorism. It should above all represent a first step towards a more transparent system within which it would become increasingly difficult, and ultimately impossible, for terrorist organizations to benefit from the collusion and support of certain States.

Mr. LI Daoyu (China) (interpretation from Chinese): First of all, please allow me to congratulate you, Sir, on you assumption of the presidency of the Security Council for this month. With your well-known diplomatic talents and rich experience, I am confident that you will guide the work of the Security Council for this month to complete success. I should like to thank your predecessor, Ambassador Yuliy Vorontsov, Permanent Representative of the Russian Federation, who led the Council in a remarkable way to the fulfilment of its work last month. At the same time, I wish to take this opportunity to express warm congratulations and best wishes to the new Secretary-General, that outstanding politician Mr. Boutros Ghali. I am confident that he will, in this noble post, make brilliant contributions to safeguarding the purposes and principles of the Charter of the United Nations and further enhancing the role and prestige of the Organization. I should also like to pay a heartfelt tribute to the former Secretary-General, Mr. Perez de Cuellar, for the widely acclaimed active efforts he made during his tenure of office to strengthen the role of our Organization in the international arena. Finally, I wish to welcome the new members of the Council - Cape Verde, Hungary, Japan, Morocco and Venezuela - and to thank the outgoing members - Côte d'Ivoire, Cuba, Romania, Yemen and Zaire - for their contributions.

The Chinese Government's principled position on the question of terrorism is known to all. We have persistently opposed and condemned all forms of terrorism, because terrorism endangers innocent lives. We deeply deplore the

(Mr. Li Daoyu, China)

bombings of Pan Am flight 103 and UTA flight 772 and their serious consequences. Such a tragedy, in our view, should never be repeated, and we are in favour of conducting earnest, fair, objective and thorough investigations on the bombing incidents, in accordance with the Charter of the United Nations and the principles of international law, and of inflicting due punishment on those accused, if proved guilty.

(Mr. Li Daoyu, China)

We have noted that, ever since the United States, the United Kingdom and France made public their investigations on the bombing incidents, the Libyan Government has shown a certain flexibility on related matters and indicated its willingness to cooperate in finding a solution. We also understand that grave differences still exist between the three countries - the United States, the United Kingdom and France - on the one side, and Libya on the other, as to how to carry out the investigations and proceedings regarding the aforementioned incidents. China believes that prudent and appropriate rather than high-pressure approaches should be adopted to bridge such differences.

During previous rounds of consultations and discussions, we noticed that the non-aligned members of the Council expressed their concern over the fact that the Security Council might base its decision solely upon the unilateral investigations of certain countries and, in particular, that the issues of jurisdiction and extradition were involved. The non-aligned members therefore put forward constructive proposals which the Chinese delegation supports. Considering that the proposals have been accepted by the sponsors of the resolution, and proceeding from the Chinese Government's consistent principled position against terrorism, the Chinese delegation voted in favour of resolution 731 (1992) adopted earlier.

Nevertheless, I should like to reiterate here that China still believes that there exist possibilities and opportunities at present to solve the problem through consultations. I wish to reiterate that the Chinese side sincerely and strongly hopes that countries directly involved in this issue will resolve their differences by peaceful consultation and through diplomatic channels so as to find a reasonable and fair solution to the bombing incidents. Such an approach would not only avoid complicating the problem further and increasing the tension, but also contribute to the maintenance of

(Mr. Li Daoyu, China)

regional peace and security as well as upholding the United Nations Charter and the principles of international law. We are convinced that, as long as all the parties concerned adopt a positive, responsible and constructive attiude, an appropriate and reasonable solution to the existing problem will be found.

In conclusion, I should like to emphasize that the adoption of this resolution should not lead to any drastic action or to exacerbating tensions.

The PRESIDENT: I thank the representative China for his kind words addressed to me.

Mr. VORONTSOV (Russian Federation): The Russian Federation unreservedly condemns all acts of international terrorism without exception, constituting as they do an open threat to international security. We vigrously oppose acts of terrorism that involve the deaths of innocent people, disrupt the diplomatic activities of States and their representatives, and which complicate the normal course of international contacts and meetings and transportation links between countries. In this regard we believe it necessary to strengthen international cooperation in the elimination of international terrorism. Recent years have seen a growing trend towards increasing cooperation in the world, including within the United Nations system, in the field of the struggle against terrorism. Today's meeting of the Security Council is confirmation of this.

This is not the first time that the problem of terrorism against civil aviation has appeared on the agenda of our Council. The Council's last resolution on this subject - resolution 635 (1989) of 14 June 1989 - condemned all acts of illegal infringement of the security of civil aviation and called upon all States to cooperate in producing and implementing measures to prevent all acts of terrorism, including those involving the use of explosives.

(Mr. Vorontsov, Russian Federation)

It is Russia's belief that the cooperation of Members of the United Nations in this area should be based upon the principles and norms of international law. A major stimulus for the concertation of international efforts should be the protection of the lives and safety of people.

On the basis of what I have said and of our principled approach of unswerving observation of international legality and law, we supported the request of the United Kingdom, the United States and France for the convening of a meeting of the Security Council. The tragedy of Pan Am flight 103 and UTA flight 722, which took hundreds of innocent lives, must not be allowed to be repeated. At the hands of ruthless terrorists there perished twice as many people as are now in this very Chamber. Often, the exigencies of our tasks required us to fly, and we can imagine the helpless horror experienced by the passengers of these two aircraft at the explosions.

We most energetically condemn the destruction of these aircraft and those who are responsible for the deaths of these people. We believe it necessary to ensure the comprehensive cooperation of the Libyan authorities, as well as that of other States, in establishing responsibility for the acts of terrorism committed against these aircraft. It is our belief that in no circumstances must the prestige and good name of a country be allowed to suffer from wrongful or criminal acts committed by any of its citizens. It is important, in accordance with universally acknowledged legal norms, that the judicial organs of those countries to which the downed aircraft belonged and over whose territory the crime was committed should be allowed to deal with this case. International interest in this trial should ensure that it is open and impartial in nature.

(Mr. Vorontsov,
Russian Federation)

The threat constituted by acts of terrorism against civil aviation to international security and stability must consolidate the efforts of the international community to produce the necessary measure of reaction to this transnational challenge. We supported the resolution just adopted by the Security Council in the belief that it is a step in that direction.

Mr. ERDOS (Hungary) (interpretation from French): As this is the first time that the Hungarian delegation has spoken in an official meeting of the Security Council, permit me to convey to you, Sir, our best wishes for success on your assumption of the presidency of the Council for the month of January. At the same time, I should like to congratulate you on the dynamic activity in which, under your highly competent leadership, the Council has been engaged constantly since the beginning of the year. We are also grateful to Ambassador Vorontsov of the Russian Federation for his work as President of the Council last December.

I also take this opportunity to express our warmest congratulations and to wish every success to Mr. Boutros Boutros Ghali, the new Secretary-General of the United Nations. I assure him of my country's most active and constructive cooperation in the performance of his highly responsible tasks. Finally, I should also like to convey my gratitude for the kind words addressed to my country, among others, upon its election as a new non-permanent member of the Security Council.

Hungarian public opinion has followed with growing concern terrorist action that continue to poison international life. It has also noted the recent increase in acts of terrorism committed on our own territory. Most recently, the phenomenon of terrorism has struck us twice: a bomb attack took place in the vicinity of the Budapest airport on a bus carrying Jews from the

(Mr. Erdos, Hungary)

former Soviet Union on their way to Israel; another attack took place against the Ambassador of Turkey in Budapest.

Hungary firmly condemns in all its forms the scourge of terrorism, which is becoming one of the most alarming global phenomomena of the late twentieth century. It also condemns any assistance, direct or indirect, given to those who plan or carry out such actions. The tragedy of Pan Am flight 103 affects Hungary directly, because four of our citizens died in that awful disaster. No one is immune to these monstrous and senseless acts, and among the victims there could very well have been children, relatives or friends of people sitting around this very table or present in this rows of representatives' seats.

We therefore associate ourselves with the statement made at the time by the President of the Security Council on its members' behalf. This statement called on all States to assist in efforts aimed at arresting those responsible for this criminal act and at bringing them to trial. We also recall General Assembly resolution 46/51, which appealed to all States to take effective and determined measures rapidly and definitively to eradicate the scourge of international terrorism.

(Mr. Erdos, Hungary)

Ours is a position of principle and we are guided by our responsibilities to the relatives of the Hungarian victims. Hence we feel morally bound to contribute in so far as we are able to establishing the facts relating to such criminal incidents.

The attacks on Pan Am and UTA aircraft are acts that obviously threaten international peace and security. As a result, we feel that it is entirely justified and highly appropriate for the Security Council, the United Nations body entrusted with the primary responsibility for the maintenance of international peace and security, to consider these terrorist manifestations.

It was with deep concern that Hungarian public opinion learned of the results of the inquiries that implicated Libyan nationals in the tragedies that occurred over Scotland and the Sahara. In a public statement in early December the Hungarian Government stated that there was a pressing need for all States Members of the United Nations, including the Libyan Government, to cooperate in establishing all the facts of the case and in determining responsibility so that those who had perpetrated the crimes might be brought to trial and meted punishment commensurate with their deeds. Hungary expresses its deep concern at terrorist acts in which States are implicated, directly or indirectly. Each and every member of the international community is in duty bound to cooperate fully and appropriately to bring the facts to light and to establish responsibility unequivocally. That applies to the case now before us as it does to all other manifestations of international terrorism.

Hungary believes that the question of eradicating international terrorism has a legitimate place among the concerns of the Security Council, which, on the basis of its mandate under the Charter, is obliged to follow closely any

(Mr. Erdos, Hungary)

event that might endanger international peace and security. In this connection the Council is in duty bound to exercise vigilance and to remain seized of specific acts of terrorism that threaten or destroy innocent lives. For verbal expressions of faith are no longer enough; the time has come for concrete actions. It is on the basis of those considerations that Hungary decided to vote in favour of the resolution, and we were pleased that it was adopted unanimously.

The PRESIDENT (interpretation from French): I thank the representative of Hungary for his kind words addressed to me.

Mr. HOHENFELLNER (Austria): Austria firmly and unequivocally condemns all acts of terrorism and has always done so. Austria has consistently called on the international community - and in particular on the United Nations - to increase efforts to combat international terrorism.

The resolution adopted by the Security Council today is an important step in this concerted action against the scourge of international terrorism. By condemning the terrorist attacks leading to the destruction of Pan Am flight 103 and UTA flight 772 and urging the Libyan Government to contribute to the elimination of international terrorism the Security Council has acted within its responsibility for the maintenance of international peace and security. Such terrorist acts strike at the very foundation of modern civilization and jeopardize friendly relations among States and, indeed, endanger their security. The perpetrators of these criminal acts must therefore be brought to justice, and it is now up to Libya to lend its full cooperation to this end. That is why Austria supported resolution 731 (1992).

The intensified legal and practical cooperation of all States is essential and, indeed, indispensable for an effective fight against

(Mr. Hohenfellner, Austria)

international terrorism. Austria has therefore become a party to all relevant international instruments against terrorism. We believe that action taken by the Security Council in this field should be guided by the principles enshrined in these conventions if a State consistently refuses to cooperate with the international community in this effective fight against terrorism.

Mr. GHAREKHAN (India): Let me begin, Mr. President, by felicitating you on your presidency of the Security Council for the month of January 1992. Your experience and energy will, I am confident, provide the Council with noteworthy stewardship during this month.

I should like to convey my delegation's appreciation to Ambassador Vorontsov of the Russian Federation for his exemplary presidency of the Council last month.

Today's meeting of the Council also provides me with the opportunity of warmly welcoming Mr. Boutros Boutros Ghali on his election as Secretary-General. It is a special pleasure for me as India's representative to welcome him in our midst and to wish him success in his very important tasks.

May I also convey my warm appreciation to the delegations of Côte d'Ivoire, Cuba, Yemen, Romania and Zaire, the outgoing members of the Council. I should like to thank them for their warm cooperation with my delegation last year. I should also like to welcome Cape Verde, Japan, Hungary, Morocco and Venezuela, the new members of the Security Council.

The universal concern at the scourge of international terrorism brings the Security Council into session today. This is not the first time the Council has taken up the issue. Resolutions 286 (1970) and 635 (1989) had addressed the problem. Separately, the General Assembly has also pronounced itself on terrorism.

(Mr. Gharekhan, India)

After the bombing of Pan Am flight 103 in December 1988 the Council's membership issued a press statement calling on all States to assist in apprehending and prosecuting those responsible for the criminal act. In meeting today to adopt resolution 731 (1992) the Council takes cognizance of a dispute involving two or more States in an issue of manifest concern to the international community. The Council's need to act in the maintenance of international peace and security is therefore legitimate.

There is hardly any country which has not been the victim of terrorism of some form or the other. India has had direct experience of terrorist violence of various kinds. In 1985 an Air India Boeing 747 en route to India from Canada was blown up in mid-air with a loss of around 400 lives. Innocent Indians have been victims of countless other terrorist attacks that include hijackings, secessionist violence fomented from outside aimed at destabilizing the country and terrorism inspired from across our national boundaries. Several Indians lost their lives on board Pan Am flight 103.

It is no wonder, therefore, that India vigorously condemns terrorism in all its forms. Our painful experience of the devastation and tragedy that international terrorism leaves in its wake enlists our involvement in today's decision of the Council.

I should stress here that the Council is specifically addressing the question of international terrorism. My delegation's vote on the resolution is an expression of its cooperation in the international community's efforts to combat this menace. The Council's action, in other words, is directed towards this objective of combating terrorism and does not, in my delegation's view, prejudge the commitment - or lack of it - of any country in promoting the objective in mind.

(Mr. Gharekhan, India)

Governments have sometimes, for short-term gains, been lenient with terrorists. For example, hijackers have been allowed to go unpunished, a leniency that only emboldens terrorists. My delegation believes, therefore, that determined Security Council action should send out the message that terrorists, and international terrorists even more, will not find safe haven anywhere but will be flushed out and punished for their misdeeds.

(Mr. Gharekhan, India)

Today's resolution, against this backdrop, throws up complex and important questions that deserve attention. In explaining my delegation's vote, I should like to make the following points.

The action that the Council envisages today, unprecedented in Council annals, and with juridical implications, cannot be a precedent. The goal of eradicating international terrorism is a pressing one. At the same time, careful note should be taken of the legal implications inherent in an issue of this kind as it is considered in the Council. We are dealing here with a case where three States, on the basis of evidence gathered by them, wish to enlist the membership of the Security Council in taking action. Such an approach immediately brings up the provisions of the United Nations Charter and of international law. It is my delegation's conviction that action by the Council should be within the ambit of and through the means provided by international law. That is why my delegation believes that today's decision of the Council cannot be considered precedent setting.

I would furthermore stress the importance of recognizing and respecting national sovereignty. The concept has been widely perceived to have come under some strain recently and deserves reiteration. This is all the more important where delicate and complex international issues with implications for national sovereignty, such as the one we are considering today in the Council, are concerned.

Non-aligned members of the Council engaged in a serious attempt at finding a consensus on this issue. My delegation believes that the important efforts of the nonaligned caucus, through consultations with the sponsors of the resolution, contributed measurably to the consensus adoption of the resolution.

A further concern of my delegation related to what the resolution has now

(Mr. Gharekhan, India)

addressed by calling upon the enormous prestige and resources of the Secretary-General in the cause of peace. My delegation believes that, had the Council not invoked the services of the Secretary-General, it would have deprived itself of one of its most potent instruments in the maintenance of international peace and security. I should add that it is my delegation's understanding that the Secretary-General will report to the Council on the outcome of his efforts.

It is on that understanding that my delegation voted in favour of resolution 731 (1992).

The PRESIDENT: I thank the representative of India for his kind words addressed to me.

Mr. HATANO (Japan): Japan, which has long held the position of strongly opposing terrorism in any form, has been following closely the inquiries into the bombing of flights Pan Am 103 and UTA 772, among whose victims was a Japanese national.

The facts of the incidents, including any possible State involvement, must be thoroughly clarified and those responsible identified through due legal process. If these incidents are revealed to be the results of international terrorist activities, then those involved deserve strong censure. My Government has called upon the Libyan Government to respond effectively to the requests made by France, the United Kingdom and the United States.

The Security Council has witnessed a spirit of cooperation in the process of drafting this resolution, and I hope that the Secretary-General will be successful as he seeks the cooperation of the Government of Libya in providing a full and effective response to those requests.

My delegation welcomes the adoption of the resolution.

Mr. ARRIA (Venezuela) (interpretation from Spanish): Mr. President, I am especially pleased to join in the congratulations that have been offered to you by my colleagues. Your intelligent and active leadership has made it possible for the Council to deal smoothly, speedily and effectively with such complex matters as Yugoslavia, Cambodia, El Salvador and now Libya.

We wish also to pay a tribute to Mr. Vorontsov, Permanent Representative of the Russian Federation, for the extraordinary manner in which he guided the Council's proceedings during a period of great significance to his country and the world.

That Mr. Boutros Boutros Ghali has now assumed his post as our new Secretary-General is a source of great satisfaction to our country.

Venezuela is this month beginning its fourth term as a member of the Security Council, where it has always maintained an unshakable position in support of peace, international security and full respect for the sovereignty of nations. Our Organization's Charter has been the framework within which we have enunciated our positions, with the intention of always reflecting also those of the community we represent. We are well aware of the fact that, although our country alone is responsible for its decisions in the Council, we cannot disregard the opinions of the nations we represent here. Our affirmative vote today is a consequence of this vision and this responsibility.

International terrorism has taken thousands of victims and, generally speaking, its perpetrators and instigators have remained unpunished. Such carnage continues to penalize the whole world with a kind of psychological terrorism which obliges us to make major efforts in the field of security in order to prevent such criminal acts. All people who use civil aviation are today still hostages to the kind of terror and anguish resulting from acts such as the downing of the French aircraft of UTA and the American aircraft of

(Mr. Arria, Venezuela)

Pan Am. Those who make use of civil air transport cannot remain in a state of constant anxiety, and that is why we propose that the Council should pronounce itself in a new resolution on terrorism in general, just as on how it will deal with these crimes. Our action against crimes against mankind will not be limited to the case now before us. It is obvious that, as long as the perpatrators remain unpunished, terrorism will never cease.

The inability of the General Assembly to take a stand on the establishment of an international crime tribunal has made it necessary for the Council today to act and to assume its responsibility towards the community we represent. Although this measure is exceptional and has involved problems for many of our countries in the area of jurisdiction and extradition of nationals, the Council does have the necessary competence and it must be prepared to assume the enormous responsibility involved in filling this institutional gap the result of the lack of alternative machinery to deal with crimes against mankind.

There can be no doubt that the decision taken unanimously by the Security Council confers legitimacy and representativeness on this resolution, the premise of which is limited strictly to acts of terrorism involving State participation.

In these new times it is urgent to accelerate the decision-making process so as to be able to deal with situations in which international cooperation must triumph over confrontation. Since 1948 the United Nations has been considering the establishment of an international criminal tribunal, calling on the International Law Commission to study its establishment in order to try persons accused of genocide and other crimes.

The latest initiave in this direction was taken by Trinidad and Tobago, which in 1989 requested the General Assembly at its forty-fourth session to

(Mr. Arria, Venezuela)

include the item "International criminal responsibility of individuals: establishment of an international criminal court". The former Prime Minister of that nation, Arthur Robinson, in his statement before the General Assembly in 1990 said that an international criminal tribunal would provide

> "... greater protection for security and sovereignty, particularly of small States; essentially, it is stability and world order that are at stake." (A/45/PV.20, p. 31)

The United Nations today is playing a particularly prominent role in new world circumstances. That is why I wanted to take this opportunity of my first statement in the Council to stress that international impunity endangers international peace and security.

How much longer will we have to way for the creation of a judicial organ to try those who are guilty of crimes against mankind? The United Nations has for 40 long years been dealing with the creation of such a tribunal, that is, practically since its founding, but the time for action has never yet seemed ripe for its representatives. Twenty years ago, diverse considerations paralysed the political will of our Organization to deal morally and juridically with terrorism. Defining terrorism itself led to interminable discussions. All these considerations are not relevant today, and we must assert the will of the United Nations and not waste any more lives or time.

(Mr. Arria, Venezuela)

It is time we understood that this is not an academic subject: This is a real subject, as the resolution we adopted today shows. The United Nations, because of its role in the world, cannot afford to continue to debate in coming years a matter of such significance and urgency. If anything affects international security - and it will be affected by this in the future - it is crimes against mankind. International impunity is an intolerable threat which cannot be accepted. The United Nations is obliged to act without any further delay.

The countries that sponsored this resolution - the United States, France and the United Kingdom - worked with the group of non-aligned countries represented in the Council and made the clear declaration that this resolution is exceptional by its nature and cannot be considered in any way as a precedent but is intended only for those cases in which States are involved in acts of terrorism.

Venezuela can never be disassociated from an international effort against terrorism as represented by this resolution. This is a matter where vagueness or equivocation cannot be tolerated. It is not enough just to issue a declaration of principles against terrorism. Venezuela today, thanks to the General Assembly, is in a position in which it feels obliged to be responsible and unequivocal.

Finally, I should like to say that our decision-making process took very much into account the results of the three years of investigations which were carried out by three countries universally recognized for their respect for the principles of law and the independence of their judicial branches. The tribunals of those countries have condemned no one and have confined themselves exclusively to determining the existence of evidence that would justify impartial criminal proceedings.

(Mr. Arria, Venezuela)

Like all countries of Spanish origin, Venezuela recognizes its links with the Arab world, whose history is largely the history of mankind. We feel that this makes us particularly sensitive to their problems. For this reason we are confident that the purpose of this resolution - a peaceful settlement of the dispute - can be achieved. Accordingly, we deem the urgent and active participation of the Secretary-General to be of special political and institutional importance.

The PRESIDENT: I thank the representative of Venezuela for his kind words addressed to me.

I shall now make a statement in my capacity as the representative of the United Kingdom.

The Council is meeting today to consider two of the most horrific acts of terrorism that the world has seen. The destruction of flight Pan Am 103 over Lockerbie on 21 December 1988 resulted in the deaths of 270 people: 259 passengers and crew, and 11 residents of the Scottish town of Lockerbie. The destruction of flight UTA 772 on 19 September 1989 resulted in 171 deaths. Four hundred and forty-one peole died in these two acts of mass murder and they were nationals of over 30 different countries. Forty-seven British nationals were killed. The United Nations itself lost a most distinguished officer, Mr. Bernt Carlsson, the Commissioner for Namibia. The enormity of these tragedies must be clear to all, even in a world that has become hardened to acts of terrorism.

But there is another aspect which sets these cases apart: the clear indication of Libyan Government involvement. It is this which has led the British Government, together with those of France and the United States, to bring before the Council Libya's failure, thus far, to comply with our

(The President)

requests that the accused be made available for trial in Scotland or the United States and to cooperate with the French judicial authorities. It is this exceptional circumstance of government involvement which has made it appropriate for the Council to adopt a resolution urging Libya to comply with those requests. We trust that the Libyan authorities will now see reason and comply fully and effectively with our requests and make available the accused for trial in Scotland or the United States.

The facts are fully set out in the documents circulated some time ago to the Council. On 14 November 1991 the Lord Advocate, who is the head of the independent prosecution authority in Scotland, announced his conclusion that there was sufficient evidence to justify application to the court for warrants for the arrest of two named Libyan nationals. The court issued warrants for their arrest on charges which include conspiracy and murder. Details of the charges are set out in the annex to Security Council document 23307. I would wish to emphasize the thoroughness of the police investigation, which lasted almost three years; the oustanding work of many police officers and agencies, not only in Scotland but throughout the world, and the extraordinary achievement of the forensic scientists and other specialists. We are not asserting the guilt of these men before they are tried, but we do say that there is serious evidence against them which they must face in court.

The accusations levelled at Libyan officials are of the gravest possible kind. The charges allege that the individuals acted as part of a conspiracy to further the purposes of the Libyan Intelligence Services by criminal means. This was a mass murder, and one in which we have good reason to believe the organs of a State Member of the United Nations were implicated.

(The President)

Following the issue of warrants against the two Libyan officials, the British Government sought to persuade the Libyan Government to make available the two accused for trial in Scotland. No satisfactory response was received. So on 27 November 1991 the British and American Governments issued a statement declaring that the Government of Libya must surrender for trial all those charged with the crime, and accept complete responsibility for the actions of Libyan officials; disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers; and pay appropriate compensation.

On the same day, the British, French and American Governments issued a declaration requiring that Libya comply with their requests and, in addition, that Libya commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. They stated that Libya must promptly, by concrete actions, prove its renunciation of terrorism.

Over two months have passed since we requested Libya to make the accused available for trial. No effective response has been received. Instead, the Libyan authorities have prevaricated and have resorted to diversionary tactics. The letter dated 18 January concerning a request for arbitration under article 14 of the Montreal Convention is not relevant to the issue before the Council. The Council is not, in the words of article 14 of the Montreal Convention, dealing with a dispute between two or more Contracting Parties concerning the interpretation or application of the Montreal Convention. What we are concerned with here is the proper reaction of the international community to the situation arising from Libya's failure, thus far, to respond effectively to the most serious accusations of State involvement in acts of terrorism.

(The President)

We have thought it right, and indeed preferable to other ways of pursuing the matter, to come before the Council and seek the Council's support, through the resolution just adopted. We very much hope that Libya will respond fully, positively and promptly, and that the accused will be made available to the legal authorities in Scotland or the United States, and in France.

The two accused of bombing Pan Am flight 103 must face, and must receive, a proper trial. Since the crime occurred in Scotland and the aircraft was American, and since the investigation has been carried out in Scotland and in the United States, the trial should clearly take place in Scotland or in the United States. It has been suggested the men might be tried in Libya. But in the particular circumstances there can be no confidence in the impartiality of the Libyan courts. The suggestion of a trial before some international tribunal is simply not practical. The International Court of Justice has no criminal jurisdiction. There is no international tribunal with such jurisdiction.

In addition to the need to bring to justice the perpetrators of these particular crimes, it is vital that this Council send an unequivocal message to other would-be terrorists. The Council's action should have an important deterrent effect. In future, terrorists operating with the connivance or support of a Government will know that they can be brought to trial swiftly and effectively in the country where their crime was committed. We cannot afford to give the impression that they will be given special treatment, or benefit from diplomatic haggling.

We do understand the position of those countries whose own laws prevent the extradition of their nationals. But there is no rule of international law which precludes the extradition of nationals, and indeed many countries place no bar on this and regularly do extradite their own nationals. This is the

(The President)

case with the United Kingdom, the United States and many other countries. We are not, by this resolution, seeking to challenge in any way the domestic rules in those countries which prohibit the extradition of nationals. We are not seeking to establish any precedent that would cast doubt on the legitimacy of those rules. We are not setting a broad precedent. We are dealing only with terrorism in which there is State involvement. In the circumstances of this case it must be clear to all that the State which is itself implicated in the acts of terrorism cannot try its own officials.

I now resume my functions as President.

There are no further names on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 3.20 p.m.

UNITED
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Security Council

PROVISIONAL

S/PV.3033/Corr.1
23 January 1992

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND AND THIRTY-THIRD MEETING

Held at Headquarters, New York,
on Tuesday, 21 January 1992, at 11.30 a.m.

Corrigendum

Page 93

First paragraph should read

(Mr. Hohenfellner, Austria)

The intensified legal and practical cooperation of all States is essential and, indeed, indispensable for an effective fight against international terrorism. Austria has therefore become a party to all relevant international instruments against terrorism. We believe that action taken by the Security Council in this field should be guided by the principles enshrined in these conventions unless a State consistently refuses to cooperate with the international community in this effective fight against terrorism.